

Memorandum

To: Members of the Task Force Education and Workforce
From: Lindsay Russell Dexter, Director, Education and Workforce
Date: June 18, 2015
Re: 35-Day Mailing – 2015 Annual Meeting

The American Legislative Exchange Council Annual Meeting will take place July 22-24 at the Manchester Grand Hyatt, San Diego, CA.

Education Subcommittee Meeting

Wednesday, July, 22 2015
8:30 a.m. – 11:20 a.m.

Joint Education and Tax Subcommittee

Wednesday, July 22, 2015
11:20 a.m. – 12:00 a.m.

Education Task Force Meeting

Thursday, July 23, 2015
2:30 p.m. – 5:30 p.m.

Enclosed Materials:

- Tentative Agenda for the Education Subcommittee Meeting
- Tentative Agenda for the Task Force on Education Meeting
- Task Force on Education Proposed Model Policy for Consideration
- Annual Meeting Agenda-at-a-Glance

As a reminder, the attached is not official ALEC model policy until it passes both the Task Force on Education and the ALEC National Board of Director.

I look forward to seeing everyone in San Diego, CA! To ensure a successful and productive meeting, please review all information and model policy. If you have any questions feel free to contact me at lrussell@alec.org or 208-250-6366.

Sincerely,

Lindsay Russell Dexter
Director, Education and Workforce Development

Task Force on Education and Workforce Development Tentative Subcommittee Meeting Agenda

Annual Meeting 2015 | San Diego,
California Wednesday, July 22, 2015
8:30 – 11:20 AM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

8:30 a.m. Call to Order

Welcome and Introductions

Approval of Minutes from Spring Task Force Summit

8:35 a.m. Model Policy Presentation and Review

1. *Dual Language Immersion Act*
2. *1:1 Device Initiative Driven by Outcomes Act*

9:00 a.m. Presentation

‘Addressing the Disclosure of Research Supported by Public Funds and Data’

9:20 a.m. Presentation

‘Crash Course: EdReformU and the History of the Laws that Built a Movement’

9:40 a.m. Model Policy Presentation and Review

1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy*

10:20 a.m. Presentation

‘Problems in Suburbia: Why Middle-Class Students Need School Choice, Digital Learning and Better Options’

10:40 a.m. Presentation

'A Plan to Change Public Education'

11:00 a.m. Model Policy Amendment Presentation and Review

1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*

11:20 a.m. Good of the Order/Adjournment

To access an electronic copy of these documents, please
visit:

<http://www.alec.org/task-forces/education/>

Task Force on Education and Workforce Development
Tentative Meeting Agenda

Annual Meeting 2015 | San Diego, California
Thursday, July 23, 2015
2:30 - 5:30 PM

Task Force Chairs:

Senator Howard Stephenson, *Utah*, and Mr. Jonathan Butcher, *Goldwater Institute*

2:30 p.m. **Call to Order**
Welcome and Introductions
Approval of Minutes from Spring Task Force Summit

2:35p.m. **Recognition and Award Presentation, Former Public Sector Chair**
Representative Greg Forristall, *Iowa*

2:40 p.m. **Legislative Roundtable**
'Educational Savings Accounts'

3:20 p.m. **Model Policy and Voting**
1. *Charter School Authorizing and Accountability Act*
2. *Charter School Funding and Facilities Act*
3. *Charter School Operations and Autonomy Act*

4:00 p.m. **Presentation**
'Doing Less with Much Less and Getting More: Transforming American Higher Education'

4:20 p.m. **Model Policy Amendments Presentation and Voting**
1. *Parental Choice Scholarship Program Act*
2. *Great Schools Tax Credit Program Act*
3. *Educational Savings Accounts Act*

4:50 p.m. **Model Policy and Voting**
1. *Dual Language Immersion*
2. *1:1 Device Initiative Driven by Outcomes*

5:30 p.m. Good of the Order/Adjournment

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Digital Teaching and Learning Program {Utah}

2 *Summary*

3 This bill creates the Digital Teaching and Learning Program for public schools, a qualifying grant program for local
4 education agencies (LEA), to improve student outcomes through the use of digital teaching and learning
5 technology and educator professional development.

6 *Legislation*

7 Section 1. {Definitions}

8 (A) "Advisory committee" means the Digital Teaching and Learning Advisory Committee.

9 (B) "Board" means the State Board of Education {Utah}.

10 (C) "Core subject areas" means the following subject areas:

11 (1) English language arts;

12 (2) Mathematics;

13 (3) Science; and

14 (4) Social studies.

15 (D) "Education consultant" means the person selected by the UETN board.

16 (E) "Education technology provider" means a person selected by the UETN board.

17 (F) "Educator" means an individual who holds or is required to hold a license, under Title 52A, Chapter
18 6, Educator Licensing and Professional Practices Act.

19 (G) "High quality professional learning" means a comprehensive, sustained, and intensive approach to
20 improving educator effectiveness in raising student achievement and improving the schoollevel
21 outcomes that meet the professional learning standards described below.

22 (H) "Independent evaluator" means the person selected by the board.

22. (I) "LEA plan" means an LEA's plan to implement the program.

34 (1) "Local education agency" or "LEA" means:

25 (1) A school district...

36 (3) A charter school; or

37 (3) The {Utah} Schools for the Deaf and the Blind.

28 (K) "Master plan" means the master plan developed by the UETN board, with final approval of the
29 board.

30 (L) "Program" means the Digital Teaching and Learning Program described in this part.

31 (M) "Qualifying LEA" means an LEA identified by the UETN board as eligible to receive a grant through

32 the program.

33 (N) "Statewide assessment" means a criterion-referenced test of student achievement in English

34 language arts, mathematics, or science, including a test administered in a computer adaptive

35 format, which is administered statewide under Part 6, Achievement Tests {Utah}.

36 (O) "{Utah} Education and Telehealth Network" or "UETN" means the {Utah} Education and Tele- health

37 Network created in Section 53B-17-105.

38 **Section 2. {Digital Teaching and Learning Program}**

39 (A) There is created the Digital Teaching and Learning Program, a qualifying grant program for qualifying

40 LEAs, to improve student outcomes through the use of digital teaching and learning technology and

41 educator professional development.

42 **Section 3. {Digital Teaching and Learning Program Advisory Committee}**

43 (A) There is created the Digital Teaching and Learning Program Advisory Committee to:

44 (1) Assist the UETN board with developing selection criteria for and selecting the education

45 consultant described in Section 4; and

46 (2) Provide input on the development of the master plan described in Section 5.

47 (B) The advisory committee shall consist of:

48 (1) The following members appointed by the UETN board:

49 (a) One member who has extensive digital educational content experience related to

50 curriculum and learning standards;

51 (b) One member who is:

52 (i) An assistant superintendent for curriculum and instruction; or

- (ii) A principal who has extensive experience with a technology program;
- (c) One member who has extensive experience with mobile device and connectivity infrastructure;
- (d) One member with demonstrated change leadership or change management expertise;
- (e) One member who is a teacher recognized as a leader in implementing a technology program;
- (f) One member who has extensive experience in independent program evaluation of technology initiatives;
- (g) One member who has extensive experience and demonstrated leadership in college and career readiness;
- (h) One member who represents business with expertise in the state requirements for a skilled workforce;
- (i) One member who is a technology expert from an urban LEA;
- (j) One member who is a technology expert from a rural LEA;
- (k) One member of the Senate; and
- (l) One member of the House of Representatives;
- (m) The executive director of the UETN; and
- (n) The state superintendent of public instruction.

72 (C) The UETN board shall weigh heavily an individual's reputation as a national leader in the
73 individual's area of expertise when appointing the members described in Subsections (B) (1) (a) (d) (e)
74 (g) (h).

75 (D) When a vacancy occurs in the membership of the advisory committee appointed under
76 Subsection (B) (1), for any reason, the UETN board shall appoint a replacement member who
77 meets the same criteria as the vacated member.

78 (E) The executive director of UETN and the state superintendent of public instruction shall
79 serve as co-chairs for the advisory committee.

80 (F) The advisory committee shall meet when a meeting of the advisory committee is called by
81 an advisory committee chair.

82 (G) (1) A quorum of the advisory committee is eight members.

83 (2) Approval by the greater of the following is required to constitute an action of the
84 advisory committee:

85 (a) A majority of the members present at an advisory committee meeting; or
86 (b) Seven members.

87 (H) A member may not receive compensation or benefits for the member's service, but may
88 receive per diem and travel expenses in accordance with:

89 (1) Section 63A-3-106;

90 (2) Section 63A-3-107; and

91 (3) Rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-
92 107.

93 (I) UETN staff shall staff the advisory committee.

94 **Section 4. {Education consultant – Education technology providers – Monitoring student**
95 **usage of technology}**

96 (A) (1) On or before June 30, 2015, in consultation with the board and the advisory
97 committee, the UETN board shall select, through a request for proposals process, a single
98 education consultant with integrated whole-school learning and teaching technology
99 deployment experience.

100 (2) The education consultant shall advise the board, the UETN board, and the advisory
101 committee as provided in this part, including consulting with the board, the UETN
102 board,

103 and the advisory committee in:

104 (a) The development of the master plan under Section 5;
105 (b) The selection of education technology providers under Subsection (B);
106 (c) The development of LEA plans; and
107 (d) The review and approval of LEA plans under Section 6.

108 (3) The education consultant may not be selected as an education technology provider
109 or

110 assist any person in responding to a request for proposals described in Subsection (B).

111 (B) (1) In consultation with the board and the education consultant, the UETN board shall,
112 through a prequalification process described in Section 63G-6a-403, identify prequalified
113 education technology providers that a qualifying LEA may select to work with to implement
114 the program by providing the following goods or services:

115 (a) Wireless network infrastructure or infrastructure related to digital teaching
Digital Teaching and Learning Program Act

116 and learning;

117 (b) Hardware related to digital teaching and learning, including laptop

118 computers or mobile devices;

119 (c) Digital licensed and unlicensed content, resources, and programs to

120 accelerate student learning in mobile digital teaching and learning;

121 (d) Software that provides a digital learning platform that:

122 (i) Is modular and integrated via an open standards architecture;

123 (ii) Provides a classroom, school, and system-wide digital assessment

124 system that tracks student progress against the state standards of

125 learning established by the board;

126 (iii) Includes comprehensive digital curriculum mapping, assessment,

127 and performance data aggregation and related reporting that is

128 accessible to students, teachers, administrators, and parents;

129 (iv) Includes collaboration and communication tools and integration via

130 applicable interoperability standards; and

131 (v) Is capable of integrating with the state's or LEA's student

132 information

133 system;

134 (e) Technology support services; or

135 (f) Professional learning for educators, administrators, and support staff related to the
136 program.

137 (2) A person who responds to the request for a statement of qualifications under the
138 prequalification process described in Subsection (B)(1) shall submit:

139 (a) A list of products and services the person can provide as an education
140 technology provider;

141 (b) A proposal on how the person's products or services meet:

142 (i) The criteria described in Subsection (B)(1); and

143 (ii) The goals and criteria of the state's master plan described in Section
144 5; and

145 (c) A disclosure of all exclusive financial arrangements with education
146 publishers, other education technology providers, or education companies.

147 (C) In evaluating a statement of qualifications under the prequalification process described in
148 Subsection (B)(1), the UETN board's evaluation criteria shall weigh heavily the person's ability
149 to prepare and customize the person's products or services to meet the objectives of a
150 participating LEA's LEA plan.

151 (D) In prequalifying the education technology providers under Subsection (B), the UETN board
152 shall prequalify education technology providers that allow an LEA to:

153 (1) Select an education technology provider to assist in the development and
154 implementation of an LEA plan under Section 53A-1-1209; or

155 (2) Select specific products or services provided by one or more education technology
156 providers.

157 (E) After identifying prequalified education technology providers as described in Subsection
158 (B), the UETN board shall follow the request for proposals process described in Title 63G,
159 Chapter 6a, {Utah} procurement Code {Utah}, to select education technology providers from
160 the prequalified education technology providers identified in Subsection (B).

161 (F) The UETN board shall ensure that:

162 (1) A contract with an education technology provider selected under this section will

163 include a performance accountability section; and

164 (2) The performance accountability section described in Subsection (F)(1) defines:

165 (a) Penalties or consequences, if the qualifying LEA, using the services of the

166 education technology provider selected under this section, does not meet

167 student performance out- come benchmarks described in Subsection 53A-1-

168 1208(6); and

169 (b) Requirements that a qualifying LEA shall meet for the education technology

170 provider selected under this section to receive compensation.

171 (G) Annually, within 30 days of the publication of results on a statewide assessment, the
172 UETN board shall publish a report detailing the correlation of the use of each education
173 technology provider's products and services selected under this section and the student
174 academic achievement, as measure by the student results on a statewide assessment.

175 (H) (1) The UETN board shall select, through a request for proposals process, one or more
176 education technology providers to provide licenses for software that monitors student usage
177 of technology in qualifying LEA schools.

178 (2) In evaluating education technology provider proposals submitted in response to the

179 request for proposals described in Subsection (H)(1), the UETN board shall ensure

180 that

181 the evaluation criteria weigh heavily the extent to which the software:

182 (a) Monitors, in detail, application usage and website access of all student

183 computing devices that are purchased with program money;

184 (b) Allows public access to aggregate student device utilization data at the

185 state,

186 school district, and school level;

187 (c) Protects student data from being accessed by unauthorized users; and

188 (d) When used, is compliant with the requirements of the Family Educational

189 Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

190 (I) (1) The UETN board shall distribute a license for the software described in Subsection (H)

191 to a qualifying LEA.

192 (2) A qualifying LEA shall install the software described in Subsection (H) on a device used by a

193 student.

194 (J) In a contract with an education technology provider described in this section, the UETN

195 board and a qualifying LEA shall:

196 (1) Require an education technology provider to use student information received as

197 part of providing services to the UETN board, board, or qualifying LEA, strictly for the

198 purpose of providing the contracted services to the UETN board, board, or qualifying

199 LEA; and

200 (2) Prohibit an education technology provider from:

201 (a) Using student information received as part of providing services to the

202 UETN

203 board, board, or qualifying LEA, for a use not described in the contract;

204 (b) Collecting student information that is unrelated to the services the

205 education

206 technology provider is required to perform pursuant to a contract with the

207 UETN board, board of qualifying LEA; or

208 **Section 5. {Master plan}**

209 (A) (1) In consultation with the board, the education consultant, and the advisory
210 committee, the UETN board shall develop a master plan for the program to integrate the
211 program into the state's public education system.

212 (2) The UETN board shall submit the master plan to the board for final approval.

213 (B) Consistent with this part, the master plan shall include:

214 (1) A statement of purpose that describes the objectives or goals the UETN board will

215 accomplish by implementing the program;

216 (2) A forecast for fundamental components of the program, including a forecast for:

217 (a) Student and teacher devices;

218 (b) Wi-Fi and wireless compatibly technology;

219 (c) Curriculum software;

220 (d) Assessment solutions;

221 (e) Technical support;

222 (f) Change management of LEAs;

223 (g) Professional development;

224 (h) Internet delivery and capacity; and

225 (i) Security and privacy of users;

226 (3) A determination of the requirement for:

227 (a) Statewide technology infrastructure; and

228 (b) Local LEA technology infrastructure;

229 (4) Standards for high quality professional learning related to implementing and

230 maintaining the program;

231 (5) A detailed definition of at least one type of device to be used by LEAs and

232 distributed

233 to educators and students;

234 (6) A statewide technical support plan that will guide the implementation and

235 maintenance of the program, including standards and competency requirements for

236 technical support personnel;

237 (7) A grant program for qualifying LEAs developed in accordance with Section 6;

238 (8) Specifications for an LEA plan that include:

239 (a) Format and submission requirements; and

240 (b) Other LEA plan requirements, including the requirements described in

241 Section 53A-1-1209;

242 (9) An inventory of the state public education system's current technology resources,

243 including software, and a plan to integrate those resources into the program;

244 (10) An ongoing evaluation process that is:

245 (a) Overseen by the board;

246 (b) Performed by the independent evaluator selected in Section 53A-1-1210;

247 and

248 (c) Based on the criteria described in Section 53A-1-1210;

249 (11) Proposed rules that incorporate the principles of the master plan into the state's

250 public education system as a whole; and

251 (12) A plan to ensure long-term sustainability that:

252 (a) Accounts for the financial impacts of the program; and

253 (b) Facilitates the redirection of the LEA savings that arise from implementing

254 the program.

255 (C) The UETN board shall integrate into the master plan privacy and security requirements of:

256 (1) Federal law;

257 (2) Sections 53A-13-301 and 53A-13-302; and

258 (3) Rules developed by the board.

259 (D) The UETN board shall complete the master plan on or before December 1, 2015.

260 **Section 6. {Digital Teaching and Learning Grant Program – Grant moneyuses}**

261 (A) (1) In accordance with this part, the UETN board, in consultation with the board and the
262 advisory committee, shall identify LEAs that qualify to receive a grant described in this
263 section.

264 (2) The board shall distribute grant money to a qualifying LEA:

265 (a) Identified by the UETN board as a qualifying LEA; and

266 (b) In accordance with the distribution requirements of Section 53A-1-1208.

267 (B) (1) The UETN board may only approve an LEA's grant application and designate the LEA as
268 a qualifying LEA if:

269 (a) The LEA's LEA plan complies with the requirements described in

270 Section 53A-1-1209;

271 (b) The UETN board determines that the LEA's LEA plan is rigorous and

272 complete; and

273 (c) At least 11 members of the advisory committee vote in favor of approving

274 the LEA's.

275 (2) The advisory committee shall:

276 (a) Keep a record of advisory committee member votes for and against

277 approval

278 of each LEA plan, including the name of each advisory committee member

279 who

280 voted for or against each LEA plan; and

281 (b) Publish the record of advisory committee member votes described in

282 Subsection (B)(2)(a) on a website accessible by:

283 (i) The UETN board;

284 (ii) The board;

285 (iii) An LEA and

286 (iv) A member of the public.

287 (C) The UETN board shall condition a grant on:

288 (1) UETN board approval of the LEA's plan;

289 (2) Satisfactory progress toward achieving the participating LEA's LEA plan objectives,

290 goals, and outcomes;

291 (3) The LEA providing matching funds as described in Subsection (E); and

292 (4) Completion by the qualifying LEA of any UETN board requirement specific to

293 receiving

294 the grant award.

295 (D) (1) An LEA grant applicant shall submit an LEA plan to the UETN board for approval.

296 (2) The UETN board shall:

297 (a) Review applicant LEA plans;

298 (b) Identify qualifying LEAs to receive grant money; and

299 (c) (i) Approve the LEA plans of qualifying LEAs; or

300 (ii) Make recommendations to LEAs on how to improve LEA plans.

301 (E) (1) A qualifying LEA shall use grant money to contract with one or more of the technology
302 providers identified by the UETN board in Section 4.

303 (2) A qualifying LEA may contract with an education technology provider that was not

304 identified by the UETN board as a prequalified education technology provider under

305 Section 53A-1-1206; if:

306 (a) The education technology provider proposed in the LEA's LEA plan meets

307 the

308 criteria described in Subsection 4(B);

309 (b) The LEA had a contract or other relationship with the education technology

310 provider prior to the LEA submitting the LEA's LEA plan; and

311 (c) The LEA's contract or other relationship with the education technology

312 provider proposed in the LEA plan was created in compliance with Title 63G,

313 Chapter 6a, **{Utah}** Procurement Code.

314 (F) A qualifying LEA may not use grant money:

315 (1) To supplant money previously used for the LEA's existing technology program;
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- (2) To fund nontechnology programs;
- (3) To purchase mobile telephones; or
- (4) To fund voice or data plans for mobile telephones.

319 Section 7. {Distribution of grant money to qualifying LEAs}

320 (A) The board shall distribute money appropriated for the program to qualifying LEAs as
321 described in this section.

322 (B) (1) The amount available to distribute to qualifying charter schools is an amount equal to the
323 product of:

324 (a) Enrollment on October 1 in the prior year at charter schools statewide,
325 divided by enrollment on October 1 in the prior year in public schools
326 statewide;

327 and

328 (b) The total amount available for distribution under this section.

329 (2) The board shall distribute to qualifying charter schools the amount available for
330 distribution to qualifying charter schools;

331 (a) In proportion to each qualifying charter school's enrollment as a
332 percentage

333 of the total enrollment in qualifying charter schools; or

334 (b) As determined by the State Charter School Board and approved by the
335 board.

336 (C) The board shall distribute grant money to the {Utah} Schools for the Deaf and the Blind in
337 an amount equal to the product of:

338 (1) Enrollment on October 1 in the prior year at the {Utah} Schools for the Deaf and the
339 Blind, divided by enrollment on October 1 in the prior year in public schools statewide;
340 and

341 (2) The total amount available for distribution under this section.

342 (D) Of the funds available for distribution under this section after the allocation of funds for
343 the {Utah} Schools for the Deaf and the Blind and qualifying charter schools, the board shall
344 distribute grant money to qualifying LEAs that are school districts as follows:

345 (1) The board shall distribute two-thirds of the total funding available for qualifying
346 LEAs

347 that are school districts to the qualifying LEAs according to a funding formula adopted
348 by

349 the board that considers:

350 (a) The property tax effort of the school district, giving more funding to a
351 school

352 district making a high tax effort; and

353 (b) The school district's ability to generate property tax revenue based on
354 the per-student taxable value of property within the boundary of the school
355 district, giving more funding to a school district with low taxable value per-

356 student; and

357 (2) The board shall distribute one-third of the total funding available for qualifying LEAs

358 that are school districts to the qualifying LEAs as follows:

359 (a) 10 percent of the funds shall be distributed on an equal basis; and

360 (b) The remaining 90 percent of the funds shall be distributed to the qualifying

361 LEAs on a per-student basis.

362 (E) (1) Subject to the provisions of Subsections (E)(2) and (3), each LEA has an opportunity to

363 receive an amount of money equal to the amount of money that the LEA would receive in

364 year one of the program if the LEA's LEA plan had been approved in year one as described

365 in Section 6.

366 (2) If an LEA's LEA plan is not approved during year one of the program, the board shall

367 deposit the LEA's allocation of program money described in Subsection (E)(1) into a s

368 eparate account that is non-lapsing.

369 (3) The board shall aware an LEA the LEA's allocation of the year on program money in

370 a

371 subsequent year of the program if:

372 (a) The LEA's LEA plan was not approved during year one of the program; and

373 (b) In the subsequent year, the LEA's LEA plan is approved as described in

374 Section 6.

375 (E) (1) The board shall set minimum improvement benchmark standards in the school level
376 outcomes described in Subsection (8)(A) that an LEA shall use to establish the LEA's minimum
377 improvement benchmarks described in Subsection (8)(D).

378 (2) The board may only distribute the following money to a qualifying LEA in year two
379 and subsequent years if the qualifying LEA meets the minimum improvement
380 benchmarks set in the qualifying LEA's LEA plan:

381 (a) For a qualifying LEA that is a charter school, one-third of the money the
382 qualifying LEA would receive from a distribution described in Subsection (B);

383 (b) For a qualifying LEA that is the {Utah} Schools for the Deaf and the Blind,
384 one-third of the money the {Utah} Schools for the Deaf and the Blind
385 would receive from a distribution described in Subsection (C); and

386 (c) For a qualifying LEA that is a school district, the money the qualifying LEA
387 would receive from a distribution described in Subsection (D)(2).

388 (3) When setting the minimum improvement benchmark standards described in
389 Subsection (E)(1) for year two, the board shall require an LEA to give substantially equal
390 weight to:

391 (a) The extent to which the qualifying LEA follows, and complies with, the
392 qualifying LEA's LEA plan; and

393 (b) The extent to which the school level and student academic outcomes

394 described in Subsections (8)(A)(2) and (8)(A)(3).

395 (4) When setting the minimum improvement benchmark standards described in
396 Subsection (E)(1) for year three and subsequent years, the board shall require an LEA's
397 minimum improvement benchmarks to be based solely on the school level outcomes
398 as
399 defined in Subsections (8)(A)(2) and (8)(A)(3).

400 (F) If a qualifying LEA fails to meet the minimum improvement benchmarks included in the
401 qualifying LEA's LEA plan and loses the qualifying LEA's distribution described in Subsection
402 (E)(2), the qualifying LEA may resubmit the qualifying LEA's LEA plan for approval, including
403 goals to improve student performance and meet the minimum improvement benchmarks in
404 the LEA plan.

405 (G) Beginning with year four of the program, the board shall proportionately decrease a
406 qualifying LEA's funding under this section:

407 (1) If only a percentage of the qualifying LEA's students participate in the program; and
408 (2) By an amount equal to the percentage of the qualifying LEA's students that do not
409 participate in the program.

410 **Section 8. {LEA plans}**

411 (A) An LEA plan submitted to the UETN board for participation in the program shall include:
412 (1) A statement of purpose that describes the learning objectives, goals, and
413 measurable

414 outcomes the LEA will accomplish by implementing the program;

415 (2) Design criteria that enable the LEA to improve the following school level outcomes:

416 (a) Student achievement on statewide assessments; and

417 (b) Cost savings and improved efficiency relating to instructional materials,

418 facilities, and maintenance;

419 (3) In addition to the required school level outcomes described in Subsection (A)(2),

420 design criteria that enable the LEA to improve other school level outcomes, including:

421 (a) Attendance,

422 (b) Discipline incidents;

423 (c) Parental involvement;

424 (d) Citizen involvement;

425 (e) Graduation rates;

426 (f) Student enrollment in higher education;

427 (g) Dropout rates;

428 (h) Student technology proficiency for college and career readiness; and

429 (i) Teacher satisfaction and engagement;

430 (4) An implementation process structured to yield the desired outcomes;

431 (5) A plan for infrastructure acquisition;

432 (6) A process for procurement and distribution of the goods and services the LEA

433 intends

434 to use as part of the LEA's implementation of the program;

435 (7) A description necessary high quality, digital instructional materials aligned with

436 UETN

437 board standards;

438 (8) A detailed plan for student engagement in personalized learning;

439 (9) Technical support standards for implementation and maintenance of the program

440 that:

441 (a) Include support for hardware and Internet access; and

442 (b) Remove technical support burdens from the classroom teacher;

443 (10) Proposed security policies, including security audits and remediation of identified

444 lapses;

445 (11) An inventory of the LEA's current technology resources, including software, and a

446 description of how the LEA will integrate those resources into the LEA's

447 implementation

448 of the program;

449 (12) A disclosure by the LEA of the LEA's current technology expenditures;

450 (13) A description of how the LEA will:

451 (a) Provide high quality professional learning for educators, administrators,

452 and

453 support staff participating in the program, including ongoing periodic coaching;

454 (b) Provide special education students with appropriate software; and

455 (c) Meet other criteria established by the UETN board; and

456 (14) Except as provided in Subsection (C), an assurance that the LEA will implement the

457 program in an entire school at a time and not introduce the program into schools in a

458 partial manner.

459 (B) An LEA shall include the LEA's proposed implementation of the program over multiple

460 years in the LEA plan.

461 (C) (1) An LEA is not required to implement the program an entire school at a time in an

462 elementary school.

463 (2) An LEA is not required to implement the program in kindergarten through grade 4.

464 (D) An LEA plan shall include minimum improvement benchmarks in the school level

465 outcomes described in Subsections (A)(2) and (A)(3):

466 (1) That the LEA will be required to meet for the LEA to continue to:

467 (a) Receive funding described in Subsection 7(E)(2); and

468 (b) Participate in the program in years three and on; and

469 (2) In accordance with the minimum improvement benchmark standards developed by

470 the board in Subsection 7(E).

471 (E) As part of the LEA's LEA plan, an LEA may propose to contract with an education
472 technology provider that was not identified by the UETN board as a prequalified education
473 technology provider under Subsection 4(B) if:

474 (1) The education technology provider proposed in the LEA's LEA plan meets the
475 criteria

476 described in Subsection 4(B);

477 (2) The LEA had a contract or other relationship with the education technology
478 provider

479 prior to the LEA submitting the LEA's LEA plan; and

480 (3) The LEA's contract or other relationship with the education technology provider
481 proposed in the LEA plan was created in compliance with Title 63G, Chapter 6a, {Utah}
482 Procurement Code.

483 (F) (1) As part of the LEA's LEA plan, an LEA may propose to:

484 (a) Scale the LEA's program implementation; or

485 (b) Limit the number of students within the LEA who will participate in the
486 program.

487 (2) If the LEA scales the LEA's program implementation or limits the number of students
488 within the LEA who will participate in the program as described in Subsection (F)(1),

489 beginning with year four of the program, the board shall proportionately decrease the
490 LEA's program money as described in Section 7(G).

491 (G) In preparing an LEA plan, an LEA shall encourage participation and input from parents,
492 educators, technology support personnel, and school community councils.

493 (H) An LEA may subject an LEA plan to a peer review.

494 **Section 9. {Board evaluation of program – Selection of an independent evaluator – UETN**
495 **board and State Board of Education reporting requirements}**

496 (A) In accordance with this section, the board shall oversee the ongoing review and evaluation to act
497 as an independent contractor in assisting the board in the evaluation process under this section.

498 (B) (1) The board shall select, through a request for proposals process, an independent
499 evaluator to act as an independent contractor in assisting the board in the evaluation process
500 under this section.

501 (2) The independent evaluator may not be a technology provider selected by the UETN
502 board under this part or assist any person in responding to a request for proposals
503 issued by the UETN board or by an LEA using money received under this party.

504 (3) The independent evaluator shall comply with the rules developed by the board and
505 the UETN board under this party.

506 (C) Under the direction of the board, the independent evaluator shall:

507 (1) Review and evaluate the program using the criteria described in Subsection(D);

(2) Report to the board on the criteria described in Subsection (D) annually;

(3) Identify best practices within the program as required in Subsection (E); and

(4) Perform other related tasks assigned to the independent evaluator by the board.

511 (D) The independent evaluator shall review and evaluate the program as required by this
512 section using the following criteria:

(1) Student achievement in core subject areas as measured by statewide assessments

administered pursuant to Section 53A-1-603 (Utah);

(2) Student learning growth on statewide assessments in core subject areas

516 administered

pursuant to Section 53A-1-603 (Utah);

518 (E) The independent evaluator shall:

(1) Identify best practices for program implementation based on:

520 (a) The independent evaluator's overall review of the program; and

521 (b) Independent research;

522 (2) Share the best practices identified in Subsection (E)(1) with:

523 (a) Participating LEAs;

524 (b) The board through the independent evaluator's annual report to the board;

525 and

526 (c) The UETN board; and

527 (3) Make recommendations to the board and the UETN board on modifications of LEA
528 plans for qualifying LEAs both individually and collectively.

529 (F) The board and the UETN board shall jointly report annually to the Education Interim
530 Committee on or before the committee's November meeting regarding:

531 (1) The status of the program, including the level of technology integration in individual
532 qualifying LEAs; and

533 (2) The results of the ongoing review and evaluation conducted under this section.

534 **Section 10. {Qualification for assistance}**

535 (A) Except as provided in Section 63M-1-908 or 63M-1-909, the administrator shall determine
536 which industries, companies, and individuals qualify to receive money from the Industrial
537 Assistance Account. Except as provided by Subsection (B), to qualify for financial assistance
538 from the restricted account, an applicant shall:

539 (1) Demonstrate to the satisfaction of the administrator that the applicant will expend
540 funds in {Utah} with employees, vendors, subcontractors, or other businesses in an

541 amount proportional with money provided from the restricted account at a minimum
542 ratio of 2 to 1 per year or other more stringent requirements as established from time
543 to

544 time by the board for a minimum period of five years beginning with the date the loan
545 or

546 grant was approved;

547 (2) Demonstrate to the satisfaction of the administrator the applicant's ability to

548 sustain

549 economic activity in the state sufficient to repay, by means of cash or appropriate

550 credits, the loan provided by the restricted account; and

551 (3) Satisfy other criteria the administrator considers appropriate.

552 (B) (1) The administrator may exempt an applicant from the requirement of Subsection (A)(1) or (2) if:

553 (a) The financial assistance is provided to an applicant for the purpose of

554 locating all or any portion of its operations to an economically disadvantaged

555 rural area;

556 (b) The applicant is part of a targeted industry;

557 (c) The applicant is a quasi-public corporation organized under Title 16,

558 Chapter

559 6a, {Utah} Revised Nonprofit Corporation Act, of Title 63E, Chapter 2,

560 Independent Corporations Act, and its operations, as demonstrated to the

561 satisfaction of the administrator, will provide significant economic stimulus to

562 the growth of commerce and industry in the state; or

563 (d) The applicant is an entity offering an economic opportunity under

564 Section 63M- 1- 909.

565 (2) The administrator may not exempt the applicant from the requirement under

Digital Teaching and Learning Program Act

566 Subsection 63M-1-909(2)(b) that the loan be structured so that the repayment or

567 return

568 to the state equals at least the amount of the assistance together with an annual

569 interest

570 charge.

571 (C) The administrator shall:

572 (1) For applicants not described in Subsection (B)(1):

573 (a) Make findings as to whether or not each applicant has satisfied each of the

574 conditions set forth in Subsection (A); and

575 (b) Monitor the continued compliance by each applicant with each of the

576 conditions set forth in Subsection (A) for five years;

577 (2) For applicants described in Subsection (B)(1), make findings as to whether the

578 economic activities of each applicant as resulted in the creation of new jobs on a per

579 capita basis in the economically disadvantaged rural area or targeted industry in which

580 the applicant is located;

581 (3) Monitor the compliance by each applicant with the provisions of any contract or

582 agreement entered into between the applicant and the state as provided in

583 Section 63M-1-907; and

584 (4) Make funding decisions based upon appropriate findings and compliance.

585 Section 11. {Repealer}

586 This bill repeals: Section 53A-1-709, **Smart School Technology Program**; Section 63M-1-
587 **909.5, Selection of educational technology provider to implement whole-school one-to-one**
588 **mobile device technology deployment plan for schools.**

589 Section 12. {Appropriation for fiscal year 2014-2015}

590 (A) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the
591 fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are
592 appropriated from resources not otherwise appropriated, or reduced from amounts
593 previously appropriated, out of the funds or accounts indicated. These sums of money are in
594 addition to any amounts previously appropriated for fiscal year 2015.

595

596 To the {Utah} Education and Telehealth Network

597 From Education Fund, one-time \$907,500

598 Schedule of Programs:

599 Digital Teaching and Learning Program \$907,500

600 The legislature intends that:

601 (B) The **{Utah}** Education and Telehealth Network use the appropriations under
602 this section to immediately begin implementation of the Digital Teaching and
603 Learning Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and
604 Learning Program; and

605 (C) The appropriation under this section be:

606 (1) One-time; and

607 (2) non-lapsing.

608 Section 13. {Appropriation for fiscal year 2015-16}

609 (A) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
610 Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the
611 following sums of money are appropriated from resources not otherwise
612 appropriated, or reduced from amounts previously appropriated, out of the funds
613 or accounts indicated. These sums of money are in addition to any amounts
614 previously appropriated for fiscal year 2016.

615 To State Board of Education – Utah State Office of Education – Initiative

616 Programs

From Education Fund	\$16,350,000
From Education Fund, one-time	\$50,000,000

617 Schedule of Programs:

Contracts and Grants – Digital Teaching and Learning Program	\$66,350,000
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619 To the {Utah} Education and Telehealth Network

From Education Fund	\$8,650,000
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621 Schedule of Programs:

Digital Teaching and Learning Program	\$8,650,000
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623 The Legislature intends that:

624 (B) The State Board of Education:

625 (1) Shall use \$65,000,000 of the appropriation to the State Board of Education under this
626 section to distribute grant money to qualifying LEAs as described in Sections 6 and 7.

627 (2) may use up to \$1,000,000 of the appropriation to the State Board of Education
628 to

629 contract with an independent evaluator to conduct an evaluation of the Digital

630 Teaching

631 and Learning Program as required by Section 9; and

632 (3) may use up to \$350,000 of the appropriation to the State Board of Education to oversee
Digital Teaching and Learning Program Act

633 and evaluate the Digital Teaching and Learning Program created in Title 53A, Chapter 1,

634 Part

635 12, Digital Teaching and Learning Program;

636 (C) The {Utah} Education and Telehealth Network:

637 (1) May use up to \$6,700,000 of the appropriation to the Utah Education and Telehealth

638 Network for infrastructure and technology support for the Digital Teaching and Learning

639 Program created in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program;

640 (2) May use up to \$750,000 of the appropriation to the {Utah} Education and Telehealth

641 Network to contract with an education consultant as required by Section 4;

642 (3) May use up to \$850,000 of the appropriation to the {Utah} Education and Telehealth

643 Network to administer and implement the Digital Teaching and Learning Program created

644 in Title 53A, Chapter 1, Part 12, Digital Teaching and Learning Program; and

645 (4) May use up to \$350,000 of the appropriation to the {Utah} Education and Telehealth

646 Network to contract with one or more technology providers to provide software to

647 monitor

648 student and teacher usage of technology in qualifying LEA schools as required in Section 4;

649 and

650 (D) The appropriations under this section be:

651 (1) Ongoing; and

652 (2) Non-lapsing

653

654 **Section 14. {Effective date}**

655 (A) Except as provided in Subsection (B), if approved by two-thirds of all the members elected to

656 each house, this bill takes effect upon approval by the governor, or the day following the

657 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

658 signature, or in the case of a veto, the date of veto override.

659 (B) Uncodified Section 14, Appropriation, takes effect on July 1, 2015.

1

Dual Language Immersion Program Act {Utah}

2 ***Summary***

3 The purpose of this Act {Utah} is to reform the Critical Languages Program by modifying it to the Dual Language
4 Immersion Program as a pilot program while also making technical corrections.

5 ***Legislation***

6 ***Section 1. {Definition}***

7 The term “critical languages” means the languages stated in the federal National Security Language
8 Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

9 ***Section 2. {Course Development}***

10 (A) The State Board of Education {Utah} shall develop a course taught in one of the aforementioned “critical
11 languages” in the state’s public education system by means of

12 (1) An interactive system composed of video and audio;

13 (2) An online high school;

14 (3) Traditional high school settings; or

15 (4) By visiting designated “critical languages” teachers.

16 (B) The courses in Section 2 may employ paraprofessionals who:

17 (1) Are fluent in the critical language of the course;

18 (2) Can reinforce and tutor students on days when students are not participating in the two- way
19 interactive classroom in Section 2(A)(1)

20 (3) The State Board of Education {Utah}, through the state superintendent of public instruction, will
21 ensure the paraprofessionals are fluent in the critical languages.

22 (C) The State Board of Education {Utah} shall make rules on the critical language courses to include:

23 (1) Notification to school districts on the times and places of the course offerings; and

24 (2) Instructional materials for the courses.

25 (D) The State Board of Education {Utah} shall track and monitor the progress of the Critical Languages Program
26 and may expand the program to include more course offerings and other critical languages, subject to student
27 demand for the courses and available resources.

28 (E) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
29 school districts and schools to initially participate in the Critical Languages Program that pro- vides:

30 (1) Up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

31 (2) Up to \$100 per student who completes a critical language course; and

32 (3) Up to an additional \$400 per foreign exchange student who completes a critical languages course;
33 however,

34 (4) If the available funding is insufficient to provide the amounts described under Section 2(E), the
35 amounts provided shall be reduced pro rata so that the total provided does not exceed the available
36 funding.

37 **Section 3. {Dual Language Immersion Pilot Program}**

38 (A) Subject to funding for the program, the State Board of Education {Utah} shall establish a pilot pro- gram for
39 school districts and schools to initially participate in the Critical Languages Immersion Pro- gram.

40 (B) The program shall provide funds as an incentive to 15 qualifying schools for the following languages:

41 (1) Six pilots for Chinese;

42 (2) Six pilots for Spanish;

43 (3) Two pilots for French; and

44 (4) One pilot for Navajo.

45 (C) Subject to funding for the program, a qualifying school shall:

46 (1) Receive up to \$18,000 per year for up to six years;

47 (2) Establish an instructional model that uses 50 percent of instruction in English and 50 percent
48 instruction in another language; and

(3) Begin the instructional model described under Subsection (C)(2) in kindergarten or grade 1 and add an additional grade each year.

Section 4. {One-time Appropriation}

(A) There is appropriated \$750,000 from the Uniform School Fund for one fiscal year only to the State Board of Education {Utah}.

(B) It is the intent of the Legislature that the appropriation under Subsection (A) be:

(1) Used to provide:

(a) \$480,000 to the Critical Languages Program established in Section 2; and

(b) \$270,000 to the Dual Language Immersion Program established in Section 3; and

(2) Nonlapsing.

Public Charter School Authorizing and Accountability Model Legislation

2 *Summary*

3 The purpose of this legislation is to establish the procedure for authorizing public charter schools by creating
4 the State Public Charter School Commission while also creating an accountability mechanism to ensure the
5 new charter schools meet standards.

6 *Legislation*

7 Section 1. {Definitions}

8 (A) An "applicant" means any person or group that develops and submits an application for a public
9 charter school to an authorizer.

10 (B) An "application" means a proposal from an applicant to an authorizer to enter into a charter
11 contract whereby the proposed school obtains public charter school status.

12 (C) An "at-risk student" means a student who has an economic or academic disadvantage that
13 requires special services and assistance to succeed in educational programs. The term includes, but is
14 not necessarily limited to, students who are members of economically disadvantaged families,
15 students who are identified as having special educational needs, students who are limited in English
16 proficiency, students who are at risk of dropping out of high school, and students who do not meet
17 minimum standards of academic proficiency.

18 (D) An "authorizer" means an entity authorized under this Act to review applications, decide
19 whether to approve or reject applications, enter into charter contracts with applicants, oversee
20 public charter schools, and decide whether to renew, not renew, or revoke charter contracts.

21 (E) A “charter contract” means a fixed-term, renewable contract between a public charter school
22 and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for
23 each party to the contract.

24 (F) A "conversion public charter school" means a charter school that existed as a non-charter public
25 school before becoming a public charter school.

26 (G) An “education service provider” means a for-profit education management organization, non-
27 profit charter management organization, school design provider, or any other partner entity with
28 which a public charter school intends to contract for educational design, implementation, or
29 comprehensive management.

30 (H) A “governing board” means the independent board of a public charter school that is party to the
31 charter contract with the authorizer and whose members have been elected or selected pursuant to
32 the school’s application.

33 (I) A “local school board” means a school board exercising management and control of a local school
34 district pursuant to the state constitution and state statutes.

35 (J) A “local school district” means a public agency that establishes and supervises one or more public
36 schools within its geographical limits pursuant to the state constitution and state statutes.

37 (K) A “non-charter public school” means a public school that is under the direct management,
38 governance, and control of a local school board or the state.

39 (L) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.

40 (M) A “public charter school” means a public school that:

41 (1) Has autonomy over decisions including, but not limited to, matters concerning finance,
42 personnel, scheduling, curriculum, and instruction;

43 (2) Is governed by an independent governing board;

44 (3) Is established and operating under the terms of a charter contract between the school’s
45 board and its authorizer;

46 (4) Is a school to which parents choose to send their children;

47 (5) Is a school that admits students on the basis of a lottery if more students apply for
48 admission than can be accommodated;

49 (6) Provides a program of education that includes one or more of the following: pre-school,
50 pre-kindergarten, any grade or grades from kindergarten through 12th grade, and adult
51 community, continuing, and vocational education programs;

52 (7) Operates in pursuit of a specific set of educational objectives as defined in its charter
53 contract; and

54 (8) Operates under the oversight of its authorizer in accordance with its charter contract.

55 (N) A "start-up public charter school" means a public charter school that did not exist as a non-
56 charter public school prior to becoming a public charter school.

57 (O) A "student" means any child who is eligible for attendance in public schools in the state.

58 (P) A "virtual public charter school" means a public charter school that offers educational services
59 predominantly through an on-line program.

60 **Section 2. {Authorizers}**

61 (A) Eligible Authorizing Entities

62 (1) The state public charter school commission created under Section 2, (B) of this Act may
63 authorize public charter schools anywhere in the state, provided that the commission
64 fulfills requirements of all public charter school authorizers under this Act.

65 (2) A local school board may register with the state, pursuant to Section 2, (C) of this Act, for
66 chartering authority within the boundaries of the school district overseen by the local school
67 board.

68 (3) Governing boards of accredited public or private postsecondary institutions, including
69 community colleges, technical colleges, tribal colleges, and four-year colleges and universities,

70 may apply to the state, pursuant to Section 2, (D) of this Act, for statewide, regional, or local
71 chartering authority, in accordance with each institution's regular operating jurisdiction.

72 (4) A mayor may apply to the state, pursuant to Section 2, (D) of this Act, for chartering
73 authority within the mayor's jurisdiction.

74 (5) A city council may apply to the state, pursuant to Section 2, (D) of this Act, for chartering
75 authority within the city council's jurisdiction.

76 (6) Governing boards of non-profit or charitable organizations, which are exempt from federal
77 taxes under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the
78 state, pursuant to Section 2, (D) of this Act, and may be granted statewide, regional, or local
79 chartering authority. Nonpublic sectarian or religious organizations, and any other charitable
80 organization which in their federal IRS Form 1023, Part IV, describe activities indicating a
81 religious purpose, are not eligible to apply to become an authorizer.

82 (B) State Public Charter School Commission

83 (1) This Act establishes a state public charter school commission (the "Commission") as an
84 independent state agency with statewide chartering jurisdiction and authority.

85 (2) The mission of the Commission shall be to authorize high-quality public charter schools
86 throughout the state, particularly schools designed to expand opportunities for at-risk
87 students, consistent with the purposes of this Act.

88 (3) The Commission shall consist of nine members, no more than five of whom shall be
89 members of the same political party. Three members shall be appointed by the Governor;

90 three members shall be appointed by the President of the Senate; and three members shall be
91 appointed by the Speaker of the House of Representatives. In making the appointments, the
92 Governor, the President of the Senate, and the Speaker of the House of Representatives shall
93 ensure statewide geographic diversity among Commission members.

94 (4) Members appointed to the Commission shall collectively possess strong experience and
95 expertise in public and nonprofit governance, management and finance, public school
96 leadership, assessment, and curriculum and instruction, and public education law. All
97 members of the Commission shall have demonstrated understanding of and commitment to charter
98 schooling as a strategy for strengthening public education.

99 (5) To establish staggered terms of office, the initial term of office for three Commission
100 members shall be four years and thereafter shall be three years; the initial term of office for
101 another three members shall be three years and thereafter shall be three years; and the initial
102 term of office for the last three members shall be two years and thereafter shall be two years.
103 No member shall serve more than seven consecutive years. The initial appointments shall be
104 made no later than [INSERT DATE].

105 (6) A member of the Commission may be removed for any cause that renders the member
106 incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission
107 exists, the original appointing authority shall appoint a member for the remaining portion of
108 the term.

109 (7) To commence operations, the Commission shall be funded initially by a one-time state

110 appropriation of \$250,000. The Commission is authorized to receive and expend gifts, grants,
111 and donations of any kind from any public or private entity to carry out the purposes of this
112 Act, subject to the terms and conditions under which they are given, provided that all such
113 terms and conditions are permissible under law.

114 (8) The Commission shall operate with dedicated resources and staff qualified to execute the
115 day- to- day responsibilities of public charter school authorizing in accordance with this Act.

116 (C) Chartering Authority Registration of Local School Boards

117 (1) The state shall publicize to all local school boards the opportunity to register with the state
118 for chartering authority within the school districts they oversee. By [INSERT DATE] of each year,
119 the state shall provide information about the opportunity, including a registration deadline, to
120 all local school boards. To register as a charter authorizer in its school district, each interested
121 local school board shall submit the following information in a format to be established by the
122 state:

123 (a) Written notification of intent to serve as a charter authorizer in accordance with
124 this Act;

125 (b) An explanation of the local school board's strategic vision for chartering;

126 (c) An explanation of the local school board's budget and personnel capacity and
127 commitment to execute the duties of quality charter authorizing, in accordance with
128 this Act;

129 (d) An explanation of how the local school board will solicit public charter school

130 applicants, in accordance with this Act;

131 (e) A description or outline of the performance framework the local school board will

132 use to guide the establishment of a charter contract and for ongoing oversight and

133 evaluation of public charter schools, consistent with the requirements of this Act; and

134 (f) A draft of the local school board's renewal, revocation, and non-renewal processes,

135 consistent with Section 4, (C).

136 (g) A statement of assurance that the local school board commits to serving as a

137 charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and

138 will fully participate in any authorizer training provided or required by the state.

139 (2) Within [INSERT NUMBER OF DAYS] of receipt of a local school board's duly submitted

140 registration materials, the state shall register the local school board as a charter authorizer

141 within the local board's school district, and shall provide the local board a letter confirming its

142 registration as a charter authorizer. No local school board shall engage in any charter-

143 authorizing functions without current registration as a charter authorizer with the state. Once

144 registered, the local school board's registration as a charter authorizer shall continue from year

145 to year, provided that the local school board fulfills all charter-authorizing duties and

146 expectations set forth in this Act and remains an authorizer in good standing with the state.

147 (D) Chartering Authority Application for Eligible Entities

148 (1) The state shall establish the annual application and approval process, including cycles and

149 deadlines during the fiscal year, for all entities eligible to apply for chartering authority, as set

150 forth in Section 2, (A) of this Act. By [INSERT DATE] of each year, the state shall make available
151 information and guidelines for all eligible entities concerning the opportunity to apply for
152 chartering authority under this Act. The application process shall require each interested
153 eligible entity to submit an application that clearly explains or presents the following elements:
154 (a) Written notification of intent to serve as a charter authorizer in accordance with
155 this Act;
156 (b) The applicant entity's strategic vision for chartering;
157 (c) A plan to support the vision presented, including explanation and evidence of the
158 applicant entity's budget and personnel capacity and commitment to execute the
159 responsibilities of quality charter authorizing, in accordance with this Act;
160 (d) A draft or preliminary outline of the request for proposals that the applicant entity
161 would, if approved as a charter authorizer, issue to solicit public charter school
162 applicants, consistent with Section 3, (A) of this Act;
163 (e) A draft of the performance framework that the applicant entity would, if approved
164 as a charter authorizer, use to guide the establishment of a charter contract and for
165 ongoing oversight and evaluation of public charter schools, consistent with the
166 requirements of this Act;
167 (f) A draft of the applicant entity's renewal, revocation, and non-renewal processes,
168 consistent with Section 4, (C) of this Act;
169 (g) A statement of assurance that the applicant entity seeks to serve as a charter

170 authorizer in fulfillment of the expectations, spirit, and intent of this Act, and that if
171 approved as a charter authorizer, the entity will fully participate in any authorizer training
172 provided or required by the state; and

173 (h) A statement of assurance that the applicant will ensure public accountability and
174 transparency in all matters concerning their charter-authorizing practices, decisions,
175 and expenditures.

176 (2) By [INSERT DATE] of each year, the state shall decide whether to grant or deny chartering
177 authority to each applicant. The state shall make its decisions on the merits of each applicant's
178 proposal and plans.

179 (3) Within [INSERT NUMBER OF DAYS] of the state's decision, the state shall execute a
180 renewable authorizing contract with each entity it has approved for chartering authority. The
181 initial term of each authorizing contract shall be six years. The authorizing contract shall specify
182 each approved entity's agreement to serve as a charter authorizer in accordance with the
183 expectations of this Act, and shall specify additional performance terms based on the
184 applicant's proposal and plan for chartering. No approved entity shall commence charter
185 authorizing without an authorizing contract in effect.

186 (E) Authorizer Powers, Duties, and Liabilities

187 (1) Authorizers are responsible for executing, in accordance with this Act, the following
188 essential powers and duties:

189 (a) Soliciting and evaluating charter applications;

(b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;

(c) Declining to approve weak or inadequate charter applications;

(d) Negotiating and executing sound charter contracts with each approved public charter school;

(e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and

(f) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

authorizing entity may delegate its duties to offices, employees, and contractors.

ulation by authorizers shall be limited to these powers and duties, and consistent with the intent and intent of this Act.

authorizing entity, members of the board of an authorizer in their official capacity, and
employees of an authorizer are immune from civil and criminal liability with respect to all
matters related to a public charter school they authorize.

(F) Principles and Standards for Charter Authorizing

uthorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing, and areas of authorizing responsibility including: organizational capacity and structure; soliciting and evaluating charter applications; performance contracting; ongoing

210 publiccharter school oversight and evaluation; and charter renewal decision-making. Authorizers shall
211 carry out all their duties under this Act in a manner consistent with such nationally recognized principles
212 and standards and with the spirit and intent of this Act. Evidence of material or persistent failure to do
213 so shall constitute grounds for losing charter authorizing powers.

214 (G) Authorizer Reporting

215 (1) Every authorizer shall be required to submit to the state and the general assembly an
216 annual report summarizing:

217 (a) The authorizer's strategic vision for chartering and progress toward achieving that

218 vision;

219 (b) The academic and financial performance of all operating public charter schools

220 overseen by the authorizer, according to the performance expectations for public
221 charter schools set forth in thisAct;

222 (c) The status of the authorizer's public charter school portfolio, identifying all public
223 charter schools in each of the following categories: approved (but not yet open),

224 operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never
225 opened;

226 (d) The authorizing functions provided by the authorizer to the public charter schools

227 under its purview, including the authorizer's operating costs and expenses detailed in
228 annual audited financial statements that conform with Generally Accepted

229 Accounting Principles; and

230 (e) The services purchased from the authorizer by the public charter schools under its
231 purview, including an itemized accounting of the actual costs of these services, as
232 required in Section 2, (K).

233 (H) Authorizer Funding

234 (1) To cover authorizer costs for overseeing public charter schools in accordance with this Act,
235 the state shall remit to each authorizer an oversight fee for each public charter school it
236 authorizes. The oversight fee shall be drawn from and calculated as a uniform percentage of
237 the per-student operational funding allocated to each public charter school, not to exceed
238 three percent of each public charter school's per-student funding in a single school year. The
239 state shall establish a statewide formula for authorizer funding, which shall apply uniformly to
240 every authorizer in the state. The state may establish a sliding scale for authorizer funding, with the
241 funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a
242 certain number of years of authorizing or after a certain number of schools has been authorized.

243 (2) An authorizer's oversight fee shall not include any costs incurred in delivering services that
244 a public charter school may purchase at its discretion from the authorizer. The authorizer shall
245 use its funding provided under this section exclusively for the purpose of fulfilling authorizing
246 obligations in accordance with this Act.

247 (3) The state shall annually review the effectiveness of the state formula for authorizer
248 funding, and shall adjust the formula if necessary to maximize public benefit and strengthen
249 the implementation of this Act.

250 (I) Conflicts of Interest

251 (1) No employee, trustee, agent, or representative of an authorizer may simultaneously serve
252 as an employee, trustee, agent, representative, vendor, or contractor of a public charter
253 school authorized by that entity.

254 (J) Exclusivity of Authorizing Functions and Rights

255 (1) No governmental or other entity, other than those expressly granted chartering authority as
256 set forth in this Act, may assume any charter authorizing function or duty in any form, unless
257 expressly allowed by law.

258 (K) Services Purchased from Authorizer – Itemized Accounting

259 (1) With the exception of oversight services as required by Section 2, (H), no public charter
260 school shall be required to purchase services from its authorizer as a condition of charter
261 approval or of executing a charter contract, nor may any such condition be implied.

262 (2) A public charter school may, at its discretion, choose to purchase services from its
263 authorizer. In such event, the public charter school and authorizer shall execute an annual
264 service contract, separate from the charter contract, stating the parties' mutual agreement
265 concerning any services to be provided by the authorizer and any service fees to be charged to
266 the public charter school. An authorizer may not charge more than market rates for services
267 provided to a public charter school.

268 (3) Within [INSERT NUMBER OF DAYS] after the end of each fiscal year, each authorizer shall
269 provide to each public charter school it oversees an itemized accounting of the actual costs of

270 services purchased by the public charter school from the authorizer. Any difference between
271 the amount initially charged to the public charter school and the actual cost shall be reconciled
272 and paid to the owed party. If either party disputes the itemized accounting, any charges
273 included in such accounting, or charges to either party, the disputing party is entitled to request
274 a third-party review at its own expense. The review shall be conducted by state whose
275 determination shall be final.

276 (L) Oversight of Public Charter School Authorizers

277 (1) The state shall be responsible for overseeing the performance and effectiveness of all
278 authorizers established under this Act.

279 (2) In accordance with Section 2, (G), every authorizer shall be required to submit to the state
280 and the general assembly an annual report. The state shall, by [INSERT DATE] of each year,
281 communicate to every authorizer the requirements for the format, content, and submission of
282 the annual report.

283 (3) Persistently unsatisfactory performance of an authorizer's portfolio of public charter
284 schools, a pattern of well-founded complaints about the authorizer or its public charter
285 schools, or other objective circumstances may trigger a special review by the state. In
286 reviewing or evaluating the performance of authorizers, the state shall apply nationally
287 recognized principles and standards for quality charter authorizing. If at any time the state
288 finds that an authorizer is not in compliance with an existing charter contract, its authorizing
289 contract with the state, or the requirements of all authorizers under this Act, the state shall

290 notify the authorizer in writing of the identified problems, and the authorizer shall have
291 reasonable opportunity to respond and remedy the problems.

292 (4) If a local school board registered as an authorizer under Section 2, (C) of this Act persists in
293 violating a material provision of a charter contract or fails to remedy other authorizing
294 problems after due notice from the state, the state shall notify the local school board, within a
295 reasonable amount of time under the circumstances, that it intends to terminate the local
296 board's chartering authority unless the local board demonstrates a timely and satisfactory
297 remedy for the violation or deficiencies.

298 (5) If an authorizer granted chartering authority under Section 2, (D) of this Act persists, after
299 due notice from the state, in violating a material provision of a charter contract or its
300 authorizing contract with the state, or fails to remedy other identified authorizing problems,
301 the state shall notify the authorizer, within a reasonable amount of time under the
302 circumstances, that it intends to revoke the authorizer's chartering authority unless the
303 authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

304 (6) In the event of revocation of any authorizer's chartering authority, the state shall manage
305 the timely and orderly transfer of each charter contract held by that authorizer to another
306 authorizer in the state, with the mutual agreement of each affected public charter school and
307 proposed new authorizer. The new authorizer shall assume the existing charter contract for the
308 remainder of the charter term.

309 **Section 3. {Application Process}**

310 (A) Request for Proposals

311 (1) To solicit, encourage, and guide the development of quality public charter school
312 applications, every authorizer operating under this Act shall issue and broadly publicize a
313 request for proposals by [INSERT DATE]. The content and dissemination of the request for
314 proposals shall be consistent with the purposes and requirements of this Act.

315 (2) Charter applicants may submit a proposal for a particular public charter school to no more
316 than one authorizer at a time.

317 (3) The state shall annually establish and disseminate a statewide timeline for charter approval
318 or denial decisions, which shall apply to all authorizers in the state.

319 (4) Each authorizer's request for proposals shall present the authorizer's strategic vision for
320 chartering, including a clear statement of any preferences the authorizer wishes to grant to
321 applications that help at-risk students.

322 (5) The request for proposals shall include or otherwise direct applicants to the performance
323 framework that the authorizer has developed for public charter school oversight and
324 evaluation in accordance with Section 4, (A) of this Act.

325 (6) The request for proposals shall include the criteria that will guide the authorizer's decision
326 to approve or deny a charter application.

327 (7) The request for proposals shall state clear, appropriately detailed questions as well as
328 guidelines concerning the format and content essential for applicants to demonstrate the
329 capacities necessary to establish and operate a successful public charter school.

330 (8) The request for proposals shall require charter applications to provide or describe

331 thoroughly, and each charter application shall provide or describe thoroughly, all of the

332 following essential elements of the proposed school plan:

333 (a) An executive summary;

334 (b) The mission and vision of the proposed public charter school, including

335 identification of the targeted student population and the community the school hopes

336 to serve;

337 (c) The location or geographic area proposed for the school;

338 (d) The grades to be served each year for the full term of the charter contract;

339 (e) Minimum, planned, and maximum enrollment per grade per year for the term of

340 the charter contract;

341 (f) Evidence of need and community support for the proposed public charter school;

342 (g) Background information on the proposed founding governing board members and,

343 if identified, the proposed school leadership and management team

344 (h) The school's proposed calendar and sample daily schedule;

345 (i) A description of the academic program aligned with state standards;

346 (j) A description of the school's instructional design, including the type of learning

347 environment (such as classroom-based or independent study), class size and

348 structure, curriculum overview, and teaching methods;

349 (k) The school's plan for using internal and external assessments to measure and

350 report student progress on the performance framework developed by the authorizer
351 in accordance with Section 4, (A) of this Act;

352 (l) The school's plans for identifying and successfully serving students with disabilities,
353 students who are English language learners, students who are academically behind,
354 and gifted students, including but not limited to compliance with applicable laws and
355 regulations;

356 (m) A description of co-curricular or extracurricular programs and how they will be
357 funded and delivered;

358 (n) Plans and timelines for student recruitment and enrollment, including lottery
359 procedures;

360 (o) The school's student discipline policies, including those for special education
361 students;

362 (p) An organization chart that clearly presents the school's organizational structure,
363 including lines of authority and reporting between the governing board, staff, any
364 related bodies (such as advisory bodies or parent and teacher councils), and any
365 external organizations that will play a role in managing the school;

366 (q) A clear description of the roles and responsibilities for the governing board, the
367 school's leadership and management team, and any other entities shown in the
368 organization chart;

369 (r) A staffing chart for the school's first year, and a staffing plan for the term of the

370 charter;

371 (s) Plans for recruiting and developing school leadership and staff;

372 (t) The school's leadership and teacher employment policies, including performance

373 evaluation plans;

374 (u) Proposed governing bylaws;

375 (v) Explanations of any partnerships or contractual relationships central to the

376 school's operations or mission;

377 (w) The school's plans for providing transportation, food service, and all other

378 significant operational or ancillary services;

379 (x) Opportunities and expectations for parent involvement;

380 (y) A detailed school start-up plan, identifying tasks, timelines and responsible

381 individuals;

382 (z) Description of the school's financial plan and policies, including financial controls

383 and audit requirements;

384 (aa) A description of the insurance coverage the school will obtain;

385 (bb) Start-up and five-year budgets with clearly stated assumptions;

386 (cc) Start-up and first-year cash-flow projections with clearly stated assumptions;

387 (dd) Evidence of anticipated fundraising contributions, if claimed in the application;

388 and,

389 (ee) A sound facilities plan, including backup or contingency plans if appropriate.

390 (9) In the case of an application to establish a public charter school by converting an existing
391 non- charter public school to public charter school status, the request for proposals shall
392 additionally require the applicants to demonstrate support for the proposed public charter
393 school conversion by a petition signed by a majority of teachers and a petition signed by a
394 majority of parents of students in the existing non-charter public school.

395 (10) In the case of a proposal to establish a virtual public charter school, the request for
396 proposals shall additionally require the applicants to describe the proposed school's system
397 of course credits and how the school will:

398 (a) Monitor and verify full-time student enrollment, student participation in a full
399 course load, credit accrual, and course completion;

400 (b) Monitor and verify student progress and performance in each course through
401 regular, proctored assessments and submissions of coursework;

402 (c) Conduct parent-teacher conferences; and

403 (d) Administer state-required assessments to all students in a proctored setting.

404 (e) In the case of a proposed public charter school that intends to contract with an
405 education service provider for substantial educational services, management services,
406 or both types of services, the request for proposals shall successful management of
407 non-academic school functions if applicable;

408 (f) Provide a term sheet setting forth the proposed duration of the service contract;
409 roles and responsibilities of the governing board, the school staff, and the service

410 provider; scope of services and resources to be provided by the service provider;

411 performance evaluation measures and time- lines; compensation structure, including

412 clear identification of all fees to be paid to the service provider; methods of contract

413 oversight and enforcement; investment disclosure; and conditions for renewal and

414 termination of the contract; and

415 (g) Disclose and explain any existing or potential conflicts of interest between the

416 school governing board and proposed service provider or any affiliated business

417 entities.

418 (11) In the case of a public charter school proposal from an applicant that currently operates

419 one or more schools in any state or nation, the request for proposals shall additionally require

420 the applicant to provide evidence of past performance and current capacity for growth.

421 (B) Application Decision-making Process

422 (1) In reviewing and evaluating charter applications, authorizers shall employ procedures,

423 practices, and criteria consistent with nationally recognized principles and standards for quality

424 charter authorizing. The application review process shall include thorough evaluation of each

425 written charter application, an in-person interview with the applicant group, and an

426 opportunity in a public forum for local residents to learn about and provide input on each

427 application.

428 (2) In deciding whether to approve charter applications, authorizers shall:

429 (a) Grant charters only to applicants that have demonstrated competence in each

430 element of the authorizer's published approval criteria and are likely to open and
431 operate a successful public charter school;

432 (b) Base decisions on documented evidence collected through the application review
433 process;

434 (c) Follow charter-granting policies and practices that are transparent, based on
435 merit, and avoid conflicts of interest or any appearance thereof.

436 (3) No later than [INSERT NUMBER OF DAYS] after the filing of a charter application, the
437 authorizer shall decide to approve or deny the charter application. The authorizer shall adopt
438 by resolution all charter approval or denial decisions in an open meeting of the authorizer's
439 governing board.

440 (4) An approval decision may include, if appropriate, reasonable conditions that the charter
441 applicant must meet before a charter contract may be executed pursuant to Section 3, (E) of
442 this Act.

443 (5) For any charter denial, the authorizer shall clearly state, for public record, its reasons for
444 denial. A denied applicant may subsequently re-apply to that authorizer or apply to any other
445 authorizer in the state.

446 (6) Within [INSERT NUMBER OF DAYS] of taking action to approve or deny a charter application,
447 the authorizer shall report to the state the action it has taken. The authorizer shall provide a
448 copy of the report to the charter applicant at the same time that the report is submitted to the
449 state. The report shall include a copy of the authorizer governing board's resolution setting

450 forth the action taken and reasons for the decision and assurances as to compliance with all of
451 the procedural requirements and application elements set forth in Section 3 of this Act.

452 (C) Purposes and Limitations of Charter Applications

453 (1) The purposes of the charter application are to present the proposed public charter school's
454 academic and operational vision and plans, demonstrate the applicant's capacities to execute
455 the proposed vision and plans, and provide the authorizer a clear basis for assessing the
456 applicant's plans and capacities. An approved charter application shall not serve as the
457 school's charter contract.

458 (D) Initial Charter Term

459 (1) An initial charter shall be granted for a term of five operating years. The charter term shall
460 commence on the public charter school's first day of operation. An approved public charter
461 school may delay its opening for one school year in order to plan and prepare for the school's
462 opening. If the school requires an opening delay of more than one school year, the school must
463 request an extension from its authorizer. The authorizer may grant or deny the extension
464 depending on the particular school's circumstances.

465 (E) Charter Contracts

466 (1) Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and
467 the governing board of the approved public charter school shall execute a charter contract
468 that clearly sets forth the academic and operational performance expectations and measures
469 by which the public charter school will be judged and the administrative relationship between

470 the authorizer and public charter school, including each party's rights and duties. The
471 performance expectations and measures set forth in the charter contract shall include but
472 need not be limited to applicable federal and state accountability requirements. The
473 performance provisions may be refined or amended by mutual agreement after the public
474 charter school is operating and has collected baseline achievement data for its enrolled
475 students.

476 (2) The charter contract for a virtual public charter school shall include description and
477 agreement regarding the methods by which the school will:

- 478 (a) Monitor and verify full-time student enrollment, student participation in a full
479 course load, credit accrual, and course completion;
- 480 (b) Monitor and verify student progress and performance in each course through
481 regular, proctored assessments and submissions of coursework;
- 482 (c) Conduct parent-teacher conferences; and
- 483 (d) Administer state-required assessments to all students in a proctored setting.

484 (3) The charter contract shall be signed by the president of the authorizer's governing board
485 and the president of the public charter school's governing body. Within [INSERT NUMBER OF
486 DAYS] of executing a charter contract, the authorizer shall submit to the state written
487 notification of the charter contract execution, including a copy of the executed charter contract
488 and any attachments.

489 (4) No public charter school may commence operations without a charter contract executed in

490 accordance with this provision and approved in an open meeting of the authorizer's governing
491 board.

492 **(F) Pre-Opening Requirements or Conditions**

493 (1) Authorizers may establish reasonable pre-opening requirements or conditions to monitor
494 the start-up progress of newly approved public charter schools and ensure that they are
495 prepared to open smoothly on the date agreed, and to ensure that each school meets all
496 building, health, safety, insurance, and other legal requirements for school opening.

497 **Section 4. {Accountability}**

498 **(A) Performance Framework**

499 (1) The performance provisions within the charter contract shall be based on a performance
500 framework that clearly sets forth the academic and operational performance indicators,
501 measures and metrics that will guide the authorizer's evaluations of each public charter school.
502 The performance framework shall include indicators, measures and metrics for, at a minimum:

- 503 (a) Student academic proficiency;
- 504 (b) Student academic growth;
- 505 (c) Achievement gaps in both proficiency and growth between major student
506 subgroups;
- 507 (d) Attendance;
- 508 (e) Recurrent enrollment from year to year;
- 509 (f) Postsecondary readiness (for high schools);

510 (g) Financial performance and sustainability; and

511 (h) Board performance and stewardship, including compliance with all applicable
512 laws, regulations, and terms of the charter contract.

513 (2) Annual performance targets shall be set by each public charter school in conjunction with
514 its authorizer, and shall be designed to help each school meet applicable federal, state, and
515 authorizer expectations.

516 (3) The performance framework shall allow the inclusion of additional rigorous, valid, and
517 reliable indicators proposed by a public charter school to augment external evaluations of
518 its performance, provided that the authorizer approves the quality and rigor of such school-
519 proposed indicators, and they are consistent with the purposes of this Act.

520 (4) The performance framework shall require the disaggregation of all student performance
521 data by major student subgroups (gender, race, poverty status, special education status,
522 English Learner status, and gifted status).

523 (5) For each public charter school it oversees, the authorizer shall be responsible for collecting,
524 analyzing, and reporting all data from state assessments in accordance with the performance
525 framework.

526 (6) Multiple schools operating under a single charter contract or overseen by a single governing
527 board shall be required to report their performance as separate, individual schools, and each
528 school shall be held independently accountable for its performance.

529 (B) Ongoing Oversight and Corrective Actions

530 (1) An authorizer shall continually monitor the performance and legal compliance of the public
531 charter schools it oversees, including collecting and analyzing data to support ongoing
532 evaluation according to the charter contract. Every authorizer shall have the authority to
533 conduct or require oversight activities that enable the authorizer to fulfill its responsibilities
534 under this Act, including conducting appropriate inquiries and investigations, so long as those
535 activities are consistent with the intent of this Act, adhere to the terms of the charter contract,
536 and do not unduly inhibit the autonomy granted to public charter schools.

537 (2) Each authorizer shall annually publish and provide, as part of its annual report to the state
538 and the general assembly, a performance report for each public charter school it oversees, in
539 accordance with the performance framework set forth in the charter contract and Section 4,
540 (G) of this Act. The authorizer may require each public charter school it oversees to submit an
541 annual report to assist the authorizer in gathering complete information about each school,
542 consistent with the performance framework.

543 (3) In the event that a public charter school's performance or legal compliance appears
544 unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived
545 problem and provide reasonable opportunity for the school to remedy the problem, unless the
546 problem warrants revocation in which case the revocation timeframes will apply.

547 (4) Every authorizer shall have the authority to take appropriate corrective actions or exercise
548 sanctions short of revocation in response to apparent deficiencies in public charter school
549 performance or legal compliance. Such actions or sanctions may include, if warranted,

550 requiring a school to develop and execute a corrective action plan within a specified
551 timeframe.

552 (C) Renewals, Revocations, and Non-renewals

553 (1) A charter may be renewed for successive five-year terms of duration, although the
554 authorizer may vary the term based on the performance, demonstrated capacities, and
555 particular circumstances of each public charter school. An authorizer may grant renewal with
556 specific conditions for necessary improvements to a public charter school.

557 (2) No later than [INSERT DATE], the authorizer shall issue a public charter school performance
558 report and charter renewal application guidance to any public charter school whose charter
559 will expire the following year. The performance report shall summarize the public charter
560 school's performance record to date, based on the data required by this Act and the charter
561 contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer
562 concerning the public charter school that may jeopardize its position in seeking renewal if not
563 timely rectified. The public charter school shall have [INSERT NUMBER OF DAYS] to respond to
564 the performance report and submit any corrections or clarifications for the report.

565 (3) The renewal application guidance shall, at a minimum, provide an opportunity for the
566 public charter school to:

567 (a) Present additional evidence, beyond the data contained in the performance
568 report, supporting its case for charter renewal;
569 (b) Describe improvements undertaken or planned for the school; and

570 (c) Detail the school's plans for the next charter term.

571 (4) The renewal application guidance shall include or refer explicitly to the criteria that will
572 guide the authorizer's renewal decisions, which shall be based on the performance framework
573 set forth in the charter contract and consistent with this Act.

574 (5) No later than [INSERT DATE], the governing board of a public charter school seeking renewal
575 shall submit a renewal application to the charter authorizer pursuant to the renewal
576 application guidance issued by the authorizer. The authorizer shall rule by resolution on the
577 renewal application no later than [INSERT NUMBER OF DAYS] after the filing of the renewal
578 application.

579 (6) In making charter renewal decisions, every authorizer shall:

580 (a) Ground its decisions in evidence of the school's performance over the term of the
581 charter contract in accordance with the performance framework set forth in the
582 charter contract;

583 (b) Ensure that data used in making renewal decisions are available to the school and
584 the public; and

585 (c) Provide a public report summarizing the evidence basis for each decision.

586 (7) A charter contract may be revoked at any time or not renewed if the authorizer determines
587 that the public charter school did any of the following or otherwise failed to comply with the
588 provisions of this Act:

589 (a) Commits a material and substantial violation of any of the terms, conditions,

590 standards, or procedures required under this Act or the charter contract;

591 (b) Fails to meet or make sufficient progress toward the performance expectations

592 set forth in the charter contract;

593 (c) Fails to meet generally accepted standards of fiscal management; or

594 (d) Substantially violates any material provision of law from which the public charter

595 school was not exempted.

596 (8) An authorizer must develop revocation and non-renewal processes that:

597 (a) Provide the charter holders with a timely notification of the prospect of revocation

598 or non-renewal and of the reasons for such possible closure;

599 (b) Allow the charter holders a reasonable amount of time in which to prepare a

600 response;

601 (c) Provide the charter holders with an opportunity to submit documents and give

602 testimony challenging the rationale for closure and in support of the continuation of

603 the school at an orderly proceeding held for that purpose;

604 (d) Allow the charter holders access to representation by counsel and to call

605 witnesses on their behalf;

606 (e) Permit the recording of such proceedings; and

607 (f) After a reasonable period for deliberation, require a final determination be made

608 and conveyed in writing to the charter holders.

609 (9) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state, in a

610 resolution of its governing board, the reasons for the revocation or nonrenewal.

611 (10) Within [INSERT NUMBER OF DAYS] of taking action to renew, not renew, or revoke a
612 charter, the authorizer shall report to the state the action taken, and shall provide a copy of the
613 report to the public charter school at the same time that the report is submitted to the state.

614 The report shall include a copy of the authorizer governing board's resolution setting forth the
615 action taken and reasons for the decision and assurances as to compliance with all of the
616 requirements set forth in this Act.

617 (D) School Closure and Dissolution

618 (1) Prior to any public charter school closure decision, an authorizer shall have developed a
619 public charter school closure protocol to ensure timely notification to parents, orderly
620 transition of students and student records to new schools, and proper disposition of school
621 funds, property, and assets in accordance with the requirements of this Act. The protocol shall
622 specify tasks, timelines, and responsible parties, including delineating the respective duties of
623 the school and the authorizer. In the event of a public charter school closure for any reason,
624 the authorizer shall oversee and work with the closing school to ensure a smooth and orderly
625 closure and transition for students and parents, as guided by the closure protocol.

626 (2) In the event of a public charter school closure for any reason, the assets of the school shall
627 be distributed first to satisfy outstanding payroll obligations for employees of the school, then
628 to creditors of the school, and then to the state treasury to the credit of the general revenue
629 fund. If the assets of the school are insufficient to pay all parties to whom the school owes

630 compensation, the prioritization of the distribution of assets may be determined by decree of
631 a court of law.

632 (E) Charter Transfers

633 (1) Transfer of a charter contract, and of oversight of that public charter school, from one
634 authorizer to another before the expiration of the charter term shall not be permitted except
635 by special petition to the state by a public charter school or its authorizer. The state shall
636 reviewsuch petitions on a case-by-case basis and may grant transfer requests in response to
637 special circumstances and evidence that such a transfer would serve the best interests of the
638 public charter school's students.

639 (F) Annual Report

640 (1) On or before [INSERT DATE] of each year beginning in the first year after the state will have
641 had public charter schools operating for a full school year, the state shall issue to the governor,
642 the general assembly, and the public at large, an annual report on the state's public charter
643 schools, drawing from the annual reports submitted by every authorizer as well as any
644 additional relevant data compiled by the state, for the school year ending in the preceding
645 calendar year. The annual report shall include a comparison of the performance of public
646 charter school students with the performance of academically, ethnically, and economically
647 comparablegroups of students in non-charter public schools. In addition, the annual report
648 shall include the state's assessment of the successes, challenges, and areas for improvement in
649 meeting the purposesof this Act, including the state's assessment of the sufficiency of funding

650 for public charter schools, the efficacy of the state formula for authorizer funding, and any
651 suggested changes in state law or policy necessary to strengthen the state's public charter
652 schools.

653 (2) additionally require the applicants to:

654 (a) Provide evidence of the education service provider's success in serving student
655 populations similar to the targeted population, including demonstrated academic
656 achievement as well as

1

Public Charter School Funding and Facilities Model Legislation

2 ***Summary***3 The purpose of this legislation is to outline the funding requirements for and facilities operations of
4 public charter schools.5 ***Legislation***6 **Section 1. {Definitions}**7 (A) An “applicant” means any person or group that develops and submits an application for a
8 public charter school to an authorizer.9 (B) An “applicant” means any person or group that develops and submits an application for a
10 public charter school to an authorizer.11 (C) An “at-risk student” means a student who has an economic or academic disadvantage that
12 requires special services and assistance to succeed in educational programs. The term
13 includes, but is not necessarily limited to, students who are members of economically
14 disadvantaged families, students who are identified as having special educational needs,
15 students who are limited in English proficiency, students who are at risk of dropping out of
16 high school, and students who do not meet minimum standards of academic proficiency.17 (D) An “authorizer” means an entity authorized under this Act to review applications, decide
18 whether to approve or reject applications, enter into charter contracts with applicants,
19 oversee public charter schools, and decide whether to renew, not renew, or revoke charter
20 contracts.21 (E) A “charter contract” means a fixed-term, renewable contract between a public charter school
22 and an authorizer that outlines the roles, powers, responsibilities, and performance
23 expectations for each party to the contract.24 (F) A “conversion public charter school” means a charter school that existed as a non-charter
25 public school before becoming a public charter school.26 (G) An “education service provider” means a for-profit education management organization,
27 non-profit charter management organization, school design provider, or any other partner
28 entity with which a public charter school intends to contract for educational design,
29 implementation, or comprehensive management.

30 (H) A "governing board" means the independent board of a public charter school that is party to
31 the charter contract with the authorizer and whose members have been elected or selected
32 pursuant to the school's application.

33 (I) A "local school board" means a school board exercising management and control of a local
34 school district pursuant to the state constitution and state statutes.

35 (J) A "local school district" means a public agency that establishes and supervises one or more
36 public schools within its geographical limits pursuant to the state constitution and state
37 statutes.

38 (K) A "non-charter public school" means a public school that is under the direct management,
39 governance, and control of a local school board or the state.

40 (L) A "parent" means a parent, guardian, or other person or entity having legal custody of a
41 child.

42 (M) A "public charter school" means a public school that:

43 (1) has autonomy over decisions including, but not limited to, matters concerning finance,
44 personnel, scheduling, curriculum, and instruction;

45 (2) is governed by an independent governing board;

46 (3) is established and operating under the terms of a charter contract between the school's
47 board and its authorizer;

48 (4) is a school to which parents choose to send their children;

49 (5) is a school that admits students on the basis of a lottery if more students apply for
50 admission than can be accommodated;

51 (6) provides a program of education that includes one or more of the following: pre-school,
52 pre-kindergarten, any grade or grades from kindergarten through 12th grade, and adult
53 community, continuing, and vocational education programs;

54 (7) operates in pursuit of a specific set of educational objectives as defined in its charter
55 contract; and

56 (8) operates under the oversight of its authorizer in accordance with its charter contract.

57 (N) A "start-up public charter school" means a public charter school that did not exist as a non-
58 charter public school prior to becoming a public charter school.

59 (O) A "student" means any child who is eligible for attendance in public schools in the state.

60 (P) A "virtual public charter school" means a public charter school that offers educational services
61 predominantly through an on-line program.

62 **Section 2. {Funding}**

63 *[The 44 jurisdictions with public charter school laws vary greatly in how they fund public charter
64 schools. In this model legislation, we provide three options for handling this issue in state law. In the
65 first option, funding flows from the state to school districts to public charter schools. In the second
66 option, funding flows from the state directly to public charter schools. In the third option, funding
67 flows from the state to authorizers to public charterschools.]*

68 **OPTION 1: FUNDING FLOWS FROM THE STATE TO SCHOOL DISTRICTS TO PUBLIC CHARTER SCHOOLS**

69 (A) Enrollment

70 (1) The enrollment of students attending public charter schools shall be included in the
71 enrollment, attendance, and, if applicable, count of students with disabilities of the school
72 district in which the student resides. The public charter school shall report all such data to
73 the school districts of residence in a timely manner. Each school district shall report such
74 enrollment, attendance, and count of students with disabilities to the state department of
75 education.

76 (B) Operational Funding

77 (1) The school district of residence shall pay directly to the public charter school for each
78 student enrolled in the public charter school who resides in the school district an amount
79 for that student equal to one hundred percent of the amount calculated pursuant to the
80 state's funding formula for school districts, notwithstanding any oversight fee reductions
81 pursuant to this Act.

82 (C) Payment Schedule

83 (1) Payments made pursuant to this section shall be made by school districts in twelve
84 substantially equal installments each year beginning on the first business day of July and
85 every month thereafter. Amounts payable under this section shall be determined by the
86 state department of education. Amounts payable to a public charter school in its first year
87 of operation shall be based on the projections of initial-year enrollment set forth in the
88 charter contract. Such projections shall be reconciled with the actual enrollment at the

end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(D) Sanctions for Failure to Make Payments

(1) In the event of the failure of a school district to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The treasurer shall pay over such sum to the public charter school upon certification of the state department of education. The state department of education shall or delegation promulgate regulations to implement the provisions of this section.

(E) Categorical Funding

(1) A school district shall direct the proportionate share of moneys generated under federal and state categorical aid programs to public charter schools serving students eligible for such aid. A school district shall ensure that public charter schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each public charter school that serves students who may be eligible to receive services provided through such programs shall comply with all reporting requirements to receive the aid.

(F) Special Education Funding

FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION

PURPOSES:

(1) A school district shall pay directly to a public charter school any federal or state aid

attributable to a student with a disability attending the school.

(2) At either party's request, a public charter school and its authorizer may negotiate and include in the charter contract alternate arrangements for the provision of and payment for special education services.

FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEADS FOR

SPECIAL EDUCATION PURPOSES:

(1) A school district shall pay directly to a public charter school any federal or state aid attributable to a student with a disability attending the school.

118 (2) A public charter school shall pay to its authorizer any federal or state aid attributable to a
119 student with a disability attending a public charter school in proportion to the level of
120 services for such student that the authorizer provides directly or indirectly.

121 (3) At either party's request, a public charter school and its authorizer may negotiate and
122 include in the charter contract alternate arrangements for the provision of and payment
123 for special education services, including, but not necessarily limited to, a reasonable
124 reserve not to exceed five percent of the authorizer's total budget for providing special
125 education services. The reserve shall only be used by the authorizer to offset excess costs
126 of providing services to students with disabilities enrolled in one of its public charter
127 schools.

128 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEADS FOR SPECIAL
129 EDUCATION PURPOSES:*

130 (1) The school district shall provide special education services to students enrolled in public
131 charter schools on the same basis as such services are provided to students enrolled in
132 other public schools of the school district.

133 (2) The school district shall retain any federal or state aid attributable to a student with a
134 disability attending a public charter school in proportion to the level of services for such
135 student with a disability that the school district provides directly or indirectly.

136 (3) At either party's request, however, the public charter school and the school district may
137 negotiate and include in a contract alternate arrangements for the provision of and
138 payment for special education services. If the public charter school and the school district
139 have negotiated to allow the public charter school to provide special education services,
140 the proportionate share of state and federal resources generated by such students shall be
141 directed by the school district to the public charter school enrolling such students.

142 (G) Generally Accepted Accounting Principles – Independent Audit

143 (1) A public charter school shall adhere to Generally Accepted Accounting Principles.

144 (2) A public charter school shall annually engage an external auditor to do an independent
145 audit of the school's finances. A public charter school shall file a copy of each audit report
146 and accompanying management letter to its authorizer by [INSERT DATE].

147 (H) Transportation Funding

148 (1) The state department of education shall disburse state transportation funding to a school
149 district for each of the public charter school students residing in the school district on the
150 same basis and in the same manner as it is paid to school districts. A school district shall
151 disburse state transportation funding to a public charter school in proportion to the
152 amount generated by the school's students who reside in the school district.
153 (2) A public charter school may enter into a contract with a school district or private provider
154 to provide transportation to the school's students.

155 (I) Budget Reserves

156 (1) Any monies received by a public charter school from any source and remaining in the
157 public charter school's accounts at the end of any budget year shall remain in the public
158 charter school's accounts for use by the public charter school during subsequent budget
159 years.

160 (J) Ability to Accept Gifts, Donations, and Grants

161 (1) Nothing in this article shall be construed to prohibit any person or organization from
162 providing funding or other assistance to the establishment or operation of a public
163 charter school. The governing board of a public charter school is authorized to accept
164 gifts, donations, and grants of any kind made to the public charter school and to expend
165 or use such gifts, donations, and grants in accordance with the conditions prescribed by
166 the donor; provided, however, that no gift, donation, or grant may be accepted if subject
167 to a condition that is contrary to any provision of law or term of the charter contract.

168 *OPTION 2: FUNDING FLOWS FROM THE STATE DIRECTLY TO PUBLIC CHARTER SCHOOLS*

169 (A) Enrollment

170 (1) Each public charter school shall certify to the state department of education its student
171 enrollment in the same manner as school districts.

172 (B) Operational Funding

173 (1) For a public charter school authorized by a school district, the state shall pay directly to
174 the public charter school for each student enrolled in the public charter school an
175 amount for that student equal to one hundred percent of the amount calculated pursuant

176 to the state's funding formula for the student's resident school district, notwithstanding
177 any oversight fee reductions pursuant to this Act.

178 (2) For a public charter school authorized by an entity other than a school district, the state
179 department of education shall withhold from the state equalization payments for each
180 school district with students residing in the school district and attending the public
181 charter school an amount equal to one hundred percent of the amount calculated
182 pursuant to the state's funding formula for each student in the resident school district
183 multiplied by the number of students enrolled in the public charter school from the
184 resident school district. The state department of education shall send the sum of these
185 withholdings to the public charter school, notwithstanding any oversight fee reductions
186 pursuant to this Act.

187 (C) Payment Schedule

188 (1) Payments made pursuant to this section shall be made by the state in twelve substantially
189 equal installments each year beginning on the first business day of July and every month
190 thereafter. Amounts payable under this section shall be determined by the state
191 department of education. Amounts payable to a public charter school in its first year of
192 operation shall be based on the projections of initial-year enrollment set forth in the
193 charter contract. Such projections shall be reconciled with the actual enrollment at the
194 end of the school's first year of operation, and any necessary adjustments shall be made
195 to payments during the school's second year of operation.

196 (D) Categorical Funding

197 (1) The state shall direct the proportionate share of moneys generated under federal and
198 state categorical aid programs to public charter schools serving students eligible for such
199 aid. The state shall ensure that public charter schools with rapidly expanding enrollments
200 are treated equitably in the calculation and disbursement of all federal and state
201 categorical aid program dollars. Each public charter school that serves students who may
202 be eligible to receive services provided through such programs shall comply with all
203 reporting requirements to receive the aid.

204 (E) Special Education Funding

205 *FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION*
206 *PURPOSES:*

207 (1) The state shall pay directly to a public charter school any federal or state aid attributable
208 to a student with a disability attending the school.
209 (2) At either party's request, a public charter school and its authorizer may negotiate and
210 include in the charter contract alternate arrangements for the provision of and payment
211 for special education services.

212 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR*
213 *SPECIAL EDUCATION PURPOSES:*

214 (1) The state shall pay directly to a public charter school any federal or state aid attributable
215 to a student with a disability attending the school.
216 (2) A public charter school shall pay to its authorizer any federal or state aid attributable to a
217 student with a disability attending a public charter school in proportion to the level of
218 services for such student that the authorizer provides directly or indirectly.
219 (3) At either party's request, a public charter school and its authorizer may negotiate and
220 include in the charter contract alternate arrangements for the provision of and payment
221 for special education services, including, but not necessarily limited to, a reasonable
222 reserve not to exceed five percent of the authorizer's total budget for providing special
223 education services. The reserve shall only be used by the authorizer to offset excess costs
224 of providing services to students with disabilities enrolled in one of its public charter
225 schools.

226 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL*
227 *EDUCATION PURPOSES:*

228 (1) The school district shall provide special education services to students enrolled in public
229 charter schools on the same basis as such services are provided to students enrolled
230 in other public schools of the school district.
231 (2) The school district shall retain any federal or state aid attributable to a student with a
232 disability attending a public charter school in proportion to the level of services for such
233 student with a disability that the school district provides directly or indirectly.
234 (3) At either party's request, however, the public charter school and the school district may

235 negotiate and include in a contract alternate arrangements for the provision of and
236 payment for special education services. If the public charter school and the school district
237 have negotiated to allow the public charter school to provide special education services,
238 the proportionate share of state and federal resources generated by such students shall
239 be directed by the school district to the public charter school enrolling such students.

240 (F) Generally Accepted Accounting Principles – Independent Audit

241 (1) A public charter school shall adhere to Generally Accepted Accounting Principles.
242 (2) A public charter school shall annually engage an external auditor to do an independent
243 audit of the school's finances. A public charter school shall file a copy of each audit report
244 and accompanying management letter to its authorizer by [INSERT DATE].

245 (G) Transportation Funding

246 (1) The state department of education shall disburse state transportation funding to a public
247 charter school on the same basis and in the same manner as it is paid to school districts.
248 (2) A public charter school may enter into a contract with a school district or private provider
249 to provide transportation to the school's students.

250 (H) Budget Reserves

251 (1) Any monies received by a public charter school from any source and remaining in the
252 public charter school's accounts at the end of any budget year shall remain in the public
253 charter school's accounts for use by the public charter school during subsequent budget
254 years.

255 (I) Ability to Accept Gifts, Donations, and Grants

256 (1) Nothing in this article shall be construed to prohibit any person or organization from
257 providing funding or other assistance to the establishment or operation of a public
258 charter school. The governing board of a public charter school is authorized to accept
259 gifts, donations, and grants of any kind made to the public charter school and to expend
260 or use such gifts, donations, and grants in accordance with the conditions prescribed by
261 the donor; provided, however, that no gift, donation, or grant may be accepted if subject
262 to a condition that is contrary to any provision of law or term of the charter contract.

263 *OPTION 3: FUNDING FLOWS FROM THE STATE TO AUTHORIZERS TO PUBLIC CHARTER SCHOOLS*

264 (A) Enrollment

265 (1) Each authorizer shall certify to the state department of education the student enrollment
266 for that year for each of its public charter schools in the same manner as school districts.

267 (B) Operational Funding

268 (1) For a public charter school authorized by a school district, the school district shall pay
269 directly to the public charter school for each student enrolled in the school an amount for
270 that student equal to one hundred percent of the amount calculated pursuant to the
271 state's funding formula for the student's resident school district, notwithstanding any
272 oversight fee reductions pursuant to this Act.

273 (2) For a public charter school authorized by an entity other than a school district, the state
274 department of education shall withhold from the state equalization payments for each
275 school district with students residing in the school district and attending the public
276 charter school an amount equal to one hundred percent of the amount calculated
277 pursuant to the state's funding formula for each student in the resident school district
278 multiplied by the number of students enrolled in the public charter school from the
279 resident school district. The state department of education shall send the sum of these
280 withholdings to the authorizer. The authorizer shall forward the sum of these
281 withholdings to each public charter school, notwithstanding any oversight fee reductions
282 pursuant to this Act.

283 (C) Payment Schedule

284 (1) Payments made pursuant to this section shall be made by an authorizer in twelve
285 substantially equal installments each year beginning on the first business day of July and
286 every month thereafter. Amounts payable under this section shall be determined by the
287 state department of education. Amounts payable to a public charter school in its first year
288 of operation shall be based on the projections of initial-year enrollment set forth in the
289 charter contract. Such projections shall be reconciled with the actual enrollment at the
290 end of the school's first year of operation, and any necessary adjustments shall be made
291 to payments during the school's second year of operation.

292 (D) Sanctions for Failure to Make Payments

293 (1) In the event of the failure of an authorizer to make payments required by this section, the
294 state treasurer shall deduct from any state funds which become due to such an
295 authorizer an amount equal to the unpaid obligation. The treasurer shall pay over such
296 sum to the public charter school upon certification of the state department of education.
297 The state department of education shall promulgate regulations to implement the
298 provisions of this section.

299 (E) Categorical Funding

300 (1) An authorizer shall direct the proportionate share of moneys generated under federal and
301 state categorical aid programs to public charter schools serving students eligible for such
302 aid. The state shall ensure that public charter schools with rapidly expanding enrollment
303 are treated equitably in the calculation and disbursement of all federal and state
304 categorical aid program dollars. Each public charter school that receives such aid shall
305 comply with all reporting requirements to receive the aid.

306 (F) Special Education Funding

307 *FOR PUBLIC CHARTER SCHOOLS THAT ARE THEIR OWN LEAS FOR SPECIAL EDUCATION
308 PURPOSES:*

309 (1) An authorizer shall pay directly to the public charter school any federal or state aid
310 attributable to a student with a disability attending the school.
311 (2) At either party's request, a public charter school and its authorizer may negotiate and
312 include in the charter contract alternate arrangements for the provision of and payment
313 for special education services.

314 *FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF NON-DISTRICT AUTHORIZER LEAS FOR
315 SPECIAL EDUCATION PURPOSES:*

316 (1) The authorizer shall pay directly to a public charter school any federal or state aid
317 attributable to a student with a disability attending the school.
318 (2) A public charter school shall pay to its authorizer any federal or state aid attributable to a
319 student with a disability attending a public charter school in proportion to the level of
320 services for such student that the authorizer provides directly or indirectly.
321 (3) At either party's request, a public charter school and its authorizer may negotiate and
322 include in the charter contract alternate arrangements for the provision of and payment for

323 specialeducation services, including, but not necessarily limited to, a reasonable reserve not to
324 exceed five percent of the authorizer's total budget for providing special education services. The
325 reserve shall only be used by the authorizer to offset excess costs of providing services to
326 students with disabilities enrolled in one of its public charter schools.

327 ***FOR PUBLIC CHARTER SCHOOLS THAT ARE PART OF SCHOOL DISTRICT LEAS FOR SPECIAL
328 EDUCATION PURPOSES:***

329 (1) The school district shall provide special education services to students enrolled in public
330 charter schools on the same basis as such services are provided to students enrolled
331 in other public schools of the school district.

332 (2) The state shall disburse to a school district any federal or state aid attributable to a
333 student with a disability attending a public charter school in proportion to the level of
334 services for such student with a disability that the school district provides directly or
335 indirectly.

336 (3) At either party's request, however, the public charter school and the school district may
337 negotiate and include in a contract alternate arrangements for the provision of and
338 payment for special education services. If the public charter school and the school district
339 have negotiated to allow the public charter school to provide special education services,
340 the proportionate share of state and federal resources generated by such students shall
341 be directed by the school district to the public charter school enrolling such students.

342 (G) Generally Accepted Accounting Principles – Independent Audit

343 (1) A public charter school shall adhere to Generally Accepted Accounting Principles.
344 (2) A public charter school shall annually engage an external auditor to do an independent
345 audit of the school's finances. A public charter school shall file a copy of each audit report
346 and accompanying management letter to its authorizer by [INSERT DATE].

347 (H) Transportation Funding

348 (1) The state department of education shall disburse state transportation funding to an
349 authorizer for each of its public charter school students on the same basis and in the
350 same manner as it is paid to school districts. An authorizer shall disburse state
351 transportation funding to a public charter school in proportion to the amount generated
352 by the school's students.

353 (2) A public charter school may enter into a contract with a school district or private provider
354 to provide transportation to the school's students.

355 (I) Budget Reserves

356 (1) Any monies received by a public charter school from any source and remaining in the
357 public charter school's accounts at the end of any budget year shall remain in the public
358 charter school's accounts for use by the public charter school during subsequent budget
359 years.

360 (J) Ability to Accept Gifts, Donations, and Grants

361 (1) Nothing in this article shall be construed to prohibit any person or organization from
362 providing funding or other assistance to the establishment or operation of a public
363 charter school. The governing board of a public charter school is authorized to accept
364 gifts, donations, and grants of any kind made to the public charter school and to expend
365 or use such gifts, donations, and grants in accordance with the conditions prescribed by
366 the donor; provided, however, that no gift, donation, or grant may be accepted if subject
367 to a condition that is contrary to any provision of law or term of the charter contract.

368 **Section 3. {Facilities}**

369 *[In this model law, we provide a menu of approaches for handling this issue in state law, most of
370 which should be included in a given state's law.]*

371 (A) Per-Student Facility Allowance

372 (1) The per-student facility allowance for public charter schools shall be determined as
373 follows: the total capital costs for public schools in the state over the past five years
374 shall be divided by the total student count in the state over the past five years.

375 (2) The actual facility allowance payments to be received by each public charter school shall
376 be determined as follows: the per-student facility allowance shall be multiplied by the
377 number of students estimated to be attending each public charter school.

378 (B) Public Charter School Facility Grant Program

379 (1) The state board of education shall establish, within available bond authorizations, a grant
380 program to assist public charter schools in financing school building projects, general
381 improvements to school buildings, and repayment of debt for school building projects.

382 Public charter schools may apply for such grants to the state board of education at such
383 time and in such manner as the state board of education prescribes. The state board of
384 education shall give preference to applications that provide for matching funds from non-
385 statesources.

386 (2) For the purposes described in subsection (3) of this section, the [INSERT NAME OF
387 APPROPRIATE STATE BONDING AUTHORITY] shall have the power, from time to time, to
388 authorize the issuance of bonds of the state in one or more series and in principal
389 amounts not exceeding in the aggregate [INSERT DOLLAR AMOUNT] provided [INSERT
390 DOLLAR AMOUNT] of said authorization shall be effective [INSERT DATE].

391 (3) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection
392 (2) of this section, shall be used by the state board of education for the purpose of
393 grants pursuant to subsection (1).

394 (4) Bonds issued pursuant to this section shall be general obligations of the state and the full
395 faith and credit of the state are pledged for the payment of the principal of and interest on said
396 bonds as the same become due, and accordingly and as part of the contract of the state with the
397 holders of said bonds, appropriation of all amounts necessary for punctual payment of such
398 principal and interest is hereby made, and the state treasurer shall pay such principal and interest
399 as the same become due.

400 (C) Public Charter School Facility Revolving Loan Program

401 (1) The public charter school facility revolving loan program is hereby created in the state
402 treasury. The public charter school facility revolving loan program shall be comprised of
403 federal funds obtained by the state for public charter schools and any other funds
404 appropriated or transferred to the fund by the state. Funds appropriated to the public
405 charter school facility revolving loan program shall remain available for the purposes of
406 the program until re-appropriated or reverted by the general assembly.

407 (2) Loans may be made from moneys in the public charter school facility revolving loan
408 program to a public charter school, upon application by a public charter school and
409 approval by the state board of education or its designee. Money loaned to a public charter
410 school pursuant to this section shall be for construction, purchase, renovation, and
411 maintenance of public charter school facilities. No loan to a public charter school shall

412 exceed [INSERT DOLLAR AMOUNT] over [INSERT NUMBER OF YEARS]. A public charter
413 school may receive multiple loans from the public charter school facility revolving loan
414 program, as long as the total amount received from the program over [INSERT NUMBER
415 OF YEARS] does not exceed [INSERT DOLLAR AMOUNT].

416 (3) The state board of education or its designee may consider all of the following when
417 making a determination as to the approval of a public charter school's loan application:

418 (a) Soundness of the financial business plans of the applicant public charter school.

419 (b) Availability to the public charter school of other sources of funding.

420 (c) Geographic distribution of loans made from the public charter school facility revolving
421 loan program.

422 (d) The impact that loans received pursuant to this section will have on the public charter
423 school's receipt of other private and public financing.

424 (e) Plans for innovatively enhancing or leveraging funds received pursuant to this section,
425 such as loan guarantees or other types of credit enhancements.

426 (f) The financial needs of the public charter school.

427 (4) Commencing with the first fiscal year following the fiscal year the public charter school
428 receives the loan, the [INSERT NAME OF APPROPRIATE STATE AGENCY] shall deduct from
429 apportionments made to the public charter school, as appropriate, an amount equal to
430 the annual repayment of the amount loaned to the public charter school under this
431 section and pay the same amount into the public charter school facility revolving loan
432 program in the state treasury. Repayment of the full amount loaned to the public charter
433 school shall be deducted by the [INSERT NAME OF APPROPRIATE STATE AGENCY] in equal
434 annual amounts over a number of years agreed upon between the public charter school and the
435 state board of education or its designee, not to exceed [INSERT NUMBER OF YEARS] for any loan.

436 (5) Notwithstanding other provisions of law, a loan may be made to a public charter school
437 pursuant to this section only in the case of a public charter school that is incorporated.

438 (6) Notwithstanding other provisions of law, in the case of default of a loan made directly to a
439 public charter school pursuant to this section, the public charter school shall be solely
440 liable for repayment of the loan.

441 (D) Bonding Authority

442 *[Public charter schools should either have equal access to all of the relevant bonding authorities
443 in a state or have their own bonding authority. For the first option, a state must amend the
444 appropriate section of the law (e.g., state health and educational facility authority section) to
445 clarify that public charter schools are eligible to obtain tax-exempt financing from the relevant
446 authority. For the second option, see language below.]*

447 (1) As used in this section:

448 (a) "Authority" means the state public charter school finance authority created by this
449 section.

450 (b) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of
451 financial indebtedness, except general obligation bonds.

452 (c) "Project" means:

453 (i) Any building, structure, or property owned, or to be acquired, by a public charter
454 school for any of its educational purposes and the related appurtenances,
455 easements, rights-of-way, improvements, paving, utilities, landscaping, parking
456 facilities, and lands; or

457 (ii) Any capital equipment owned, or to be acquired, by a public charter school for any
458 of its educational purposes, interests in land, and grounds, together with the personal
459 property necessary, convenient, or appurtenant to them.

460 (2) There is created a body politic and corporate known as the state public charter school
461 finance authority. The authority is created to provide an efficient and cost-effective
462 method of financing public charter school facilities.

463 (3) The governing board of the authority shall be composed of:

464 (a) The governor or the governor's designee;

465 (b) The state treasurer; and

466 (c) The state superintendent of public instruction or the state superintendent's designee.

467 (4) Upon request, the state board of education shall provide staff support to the authority.

468 (5) The authority shall have perpetual succession as a body politic and corporate.

469 (6) The authority may:

470 (a) Sue and be sued in its own name;

471 (b) Have, and alter at will, an official seal;

472 (c) Receive and accept aid or contributions from any source, including the United States or
473 this state, in the form of money, property, labor, or other things of value to be held,
474 used, and applied to carry out the purposes of this part, subject to the conditions upon
475 which the aid and contributions are made, for any purpose consistent with this part;

476 (d) Exercise the power to borrow money and issue obligations, except the authority may
477 only exercise powers to finance a project as defined in state law;

478 (e) Employ advisers, consultants, and agents, including financial experts, independent legal
479 counsel, and any advisers, consultants, and agents as may be necessary in its judgment
480 and fix their compensation;

481 (f) Make and execute contracts and other instruments necessary or convenient for the
482 performance of its duties and the exercise of its powers and functions; and

483 (g) Have and exercise any other powers or duties that are necessary or appropriate to carry
484 out and effectuate the purposes of this chapter.

485 (7) If the authority is dissolved at any time, for any reason, all funds, property, rights, and
486 interests of the authority, following the satisfaction of the authority's obligations, shall
487 immediately vest in and become the property of the state, which shall succeed to all rights
488 of the authority subject to any encumbrances which may then exist on any particular
489 properties.

490 (8) None of the net earnings of the authority shall inure to the benefit of any private person.

491 (E) Moral Obligation of the State

492 (1) The general assembly hereby finds and declares that its intent in enacting this section is
493 to support public charter schools and public charter school capital construction by helping
494 qualified public charter schools that choose to have the [INSERT NAME OF BONDING
495 AUTHORITY] issue bonds on their behalf obtain more favorable financing terms for the
496 bonds.

497 (2) If the [INSERT NAME OF BONDING AUTHORITY] has issued bonds on behalf of a public
498 charter school that defaults on its debt service payment obligations, the board of
499 directors of the authority shall submit to the governor a certificate certifying any amount
500 of moneys required to fulfill the school's debt service payment obligations. The governor

501 shall submit a request for appropriations in an amount sufficient to fulfill the school's debt
502 service payment obligations and the general assembly may, but shall not be required to,
503 appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates
504 any moneys for said purpose, the aggregate outstanding principal amount of bonds for which
505 moneys may be appropriated for said purpose shall not exceed [INSERT DOLLAR AMOUNT].

506 (F) Access to State Facilities Programs for Non-Charter Public Schools

507 *[Public charter schools should have equal access to all of the existing state facilities programs for
508 traditional public schools in a state. To implement this item, a state must amend the relevant
509 section of the law (e.g., public school capital construction assistance fund section) to clarify that
510 public charter schools are eligible to obtain funding from the relevant program.]*

511 (G) Credit Enhancement Fund

512 (1) [INSERT DOLLAR AMOUNT] shall be set aside for a credit enhancement fund for public
513 charter schools to be administered by the state board of education.

514 (2) Using the amounts described in paragraph (1), the state board of education shall make
515 and disburse grants to eligible nonprofit corporations to carry out the purposes described
516 in paragraph (3).

517 (3) The recipient of a grant under this fund shall use the monies provided under the grant to
518 carry out activities to assist public charter schools in:

519 (a) Obtaining financing to acquire interests in real property (including by purchase, lease,
520 or donation), including financing to cover planning, development, and other incidental
521 costs;

522 (b) Obtaining financing for construction of facilities or the renovation, repair, or alteration
523 of existing property or facilities (including the purchase or replacement of fixtures and
524 equipment), including financing to cover planning, development, and other incidental
525 costs;

526 (c) Enhancing the availability of loans (including mortgages) and bonds; and
527 (d) Obtaining lease guarantees.

528 (4) Funds provided under a grant under this subparagraph may not be used by a recipient to
529 make direct loans or grants to public charter schools.

530 (H) Access to District Facilities and Land

531 (1) A public charter school shall have a right of first refusal to purchase or lease at or below
532 fair market value a closed public school facility or property or unused portions of a public
533 school facility or property located in a school district from which it draws its students if
534 the school district decides to sell or lease the public school facility or property.

535 (I) Contracting for Use of Facilities

536 (1) A public charter school may negotiate and contract at or below fair market value with a
537 school district, the governing body of a state college or university or public community
538 college, or any other public or for-profit or nonprofit private entity for the use of facility
539 for a school building.

540 (J) Use of Other Facilities under Preexisting Zoning and Land Use Designations

541 (1) Library, community service, museum, performing arts, theatre, cinema, church,
542 community college, college, and university facilities may provide space to public charter
543 schools within their facilities under their preexisting zoning and land use designations.

544 (K) Exemptions from Ad Valorem Taxes and Certain Fees

545 (1) Any facility, or portion thereof, used to house a public charter school shall be exempt
546 from ad valorem taxes.

547 (2) Public charter school facilities are exempt from assessments of fees for building
548 permits, fees for building and occupational licenses, impact fees, service availability
549 fees, and assessments for special benefits.

Public Charter School Operations and Autonomy Model Legislation

Summary

The purpose of this legislation is to define the requirements and capabilities of public charter schools in school districts.

Legislation

6 Section 1. {Definitions}

(A) An “applicant” means any person or group that develops and submits an application for a public charter school to an authorizer.

9 (B) An "application" means a proposal from an applicant to an authorizer to enter into a charter
10 contract whereby the proposed school obtains public charter school status.

11 (C) An "at-risk student" means a student who has an economic or academic disadvantage that
12 requires special services and assistance to succeed in educational programs. The term includes, but
13 is not necessarily limited to, students who are members of economically disadvantaged families,
14 students who are identified as having special educational needs, students who are limited in English
15 proficiency, students who are at risk of dropping out of high school, and students who do not meet
16 minimum standards of academic proficiency.

17 (D) An "authorizer" means an entity authorized under this Act to review applications, decide
18 whether to approve or reject applications, enter into charter contracts with applicants, oversee
19 publiccharter schools, and decide whether to renew, not renew, or revoke charter contracts.

20 (E) A "charter contract" means a fixed-term, renewable contract between a public charter school
21 and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for
22 each party to the contract.

23 (F) A "conversion public charter school" means a charter school that existed as a non-charter public
24 school before becoming a public charter school.

25 (G) An "education service provider" means a for-profit education management organization, non-
26 profit charter management organization, school design provider, or any other partner entity with

27 which a public charter school intends to contract for educational design, implementation, or
28 comprehensive management.

29 (H) A "governing board" means the independent board of a public charter school that is party to the
30 charter contract with the authorizer and whose members have been elected or selected pursuant to
31 the school's application.

32 (I) A "local school board" means a school board exercising management and control of a local school
33 district pursuant to the state constitution and state statutes.

34 (J) A "local school district" means a public agency that establishes and supervises one or more public
35 schools within its geographical limits pursuant to the state constitution and state statutes.

36 (K) A "non-charter public school" means a public school that is under the direct management,
37 governance, and control of a local school board or the state.

38 (L) A "parent" means a parent, guardian, or other person or entity having legal custody of a child.

39 (M) A "public charter school" means a public school that:

40 (1) Has autonomy over decisions including, but not limited to, matters concerning finance,
41 personnel, scheduling, curriculum, and instruction;

42 (2) Is governed by an independent governing board;

43 (3) Is established and operating under the terms of a charter contract between the school's
44 board and its authorizer;

45 (4) Is a school to which parents choose to send their children;

46 (5) Is a school that admits students on the basis of a lottery if more students apply for
47 admission than can be accommodated;

48 (6) Provides a program of education that includes one or more of the following: pre-school,

49 pre-kindergarten, any grade or grades from kindergarten through 12th grade, and adult
50 community, continuing, and vocational education programs;

51 (7) Operates in pursuit of a specific set of educational objectives as defined in its charter
52 contract; and

53 (8) Operates under the oversight of its authorizer in accordance with its charter contract.

54 (N) A "start-up public charter school" means a public charter school that did not exist as a non-
55 charter public school prior to becoming a public charter school.

56 (O) A "student" means any child who is eligible for attendance in public schools in the state.

57 (P) A "virtual public charter school" means a public charter school that offers educational services
58 predominantly through an on-line program.

59 **Section 2. {Operations and Autonomy}**

60 (A) Open Enrollment and Lottery Requirements

61 (1) A public charter school shall be open to any student residing in the state.

62 (2) A school district shall not require any student enrolled in the school district to attend a
63 public charter school.

64 (3) A public charter school shall not limit admission based on ethnicity, national origin, religion,
65 gender, income level, disabling condition, proficiency in the English language, or academic or
66 athletic ability.

67 (4) A public charter school may limit admission to students within a given age group or grade
68 level and may be organized around a special emphasis, theme, or concept as stated in the
69 school's application.

70 (5) A public charter school shall enroll all students who wish to attend the school, unless the
71 number of students exceeds the capacity of a program, class, grade level, or building.

72 (6) If capacity is insufficient to enroll all students who wish to attend the school, the public
73 charter school shall select students through a lottery.

74 (B) Enrollment Preferences

75 (1) Any non-charter public school converting partially or entirely to a public charter school shall
76 adopt and maintain a policy giving enrollment preference to students who reside within the
77 former attendance area of that public school.

78 (2) A public charter school shall give enrollment preference to students enrolled in the public
79 charter school the previous school year and to siblings of students already enrolled in the
80 public charter school. An enrollment preference for returning students excludes those students
81 from entering into a lottery.

82 (3) A public charter school may give enrollment preference to children of a public charter
83 school's founders, governing board members, and full-time employees, so long as they
84 constitute no more than 10 percent of the school's total student population.

85 (4) This section does not preclude the formation of a public charter school whose mission is
86 focused on serving students with disabilities, students of the same gender, students who pose
87 such severe disciplinary problems that they warrant a specific educational program, or
88 students who are at risk of academic failure. If capacity is insufficient to enroll all students who
89 wish to attend such school, the public charter school shall select students through a lottery.

90 (C) Credit Transferability

91 (1) If a student who was previously enrolled in a public charter school enrolls in another public
92 school in this state, the student's new school shall accept credits earned by the student in
93 courses or instructional programs at the public charter school in a uniform and consistent
94 manner and according to the same criteria that are used to accept academic credits from other
95 public schools.

96 (D) Information to Parents and the General Public

97 (1) A school district shall provide or publicize to parents and the general public information
98 about public charter schools authorized by the district as an enrollment option within the
99 district to the same extent and through the same means that the district provides and
100 publicizes information about non-charter public schools in the district.

101 (E) Determination of Student Capacity of Public Charter Schools

102 (1) An authorizer may not restrict the number of students a public charter school may enroll.
103 The capacity of the public charter school shall be determined annually by the governing board
104 of the public charter school in conjunction with the authorizer and in consideration of the
105 public charter school's ability to facilitate the academic success of its students, to achieve the
106 other objectives specified in the charter contract, and to ensure that its student enrollment
107 does not exceed the capacity of its facility or site.

108 (F) Legal Status of Public Charter School

109 (1) Notwithstanding any provision of law to the contrary, to the extent that any provision of

110 this Act is inconsistent with any other state or local law, rule, or regulation, the provisions of
111 this Act shall govern and be controlling.

112 (2) A public charter school shall be a non-profit education organization.

113 (3) A public charter school shall be subject to all federal laws and authorities enumerated
114 herein or arranged by charter contract with the school's authorizer, where such contracting is
115 consistent with applicable laws, rules, and regulations.

116 (4) Except as provided in this Act, a public charter school shall not be subject to the state's
117 education statutes or any state or local rule, regulation, policy, or procedure relating to non-
118 charter public schools within an applicable local school district regardless of whether such rule,
119 regulation, policy, or procedure is established by the local school board, the state board of
120 education, or the state department of education.

121 (5) A charter contract may consist of one or more schools, to the extent approved by the
122 authorizer and consistent with applicable law. Each public charter school that is part of a
123 charter contract shall be separate and distinct from any others.

124 (6) A single governing board may hold one or more charter contracts. Each public charter
125 school that is part of a charter contract shall be separate and distinct from any others.

126 (G) Local Educational Agency Status [*The 44 jurisdictions with public charter school laws vary greatly*
127 *in how they address the local educational agency (LEA) status of public charter schools. In this model*
128 *legislation, we provide two options for handling this issue in state law.*]

129 **OPTION 1: A PUBLIC CHARTER SCHOOL IS A LOCAL EDUCATIONAL AGENCY**

130 (1) A public charter school shall function as a Local Educational Agency ("LEA"). A public charter

131 school shall be responsible for meeting the requirements of LEAs under applicable federal,
132 state, and local laws, including those relating to special education. LEA status shall not preclude
133 a public charter school from developing partnerships with districts for services, resources, and
134 programs by mutual agreement or formal contract.

135 (2) A public charter school shall have primary responsibility for special education at the school,
136 including identification and service provision. It shall be responsible for meeting the needs of
137 enrolled students with disabilities. In instances where a student's individualized education
138 program team determines that a student's needs are so profound that they cannot be met in
139 the public charter school and that the public charter school cannot provide a free, appropriate
140 public education to that student, the student's district of residence shall place the student in a
141 more appropriate setting.

142 ***OPTION 2: A PUBLIC CHARTER SCHOOL IS NOT A LOCAL EDUCATIONAL AGENCY***

143 (1) The [INSERT NAME OF ENTITY] of a public charter school is the public charter school's Local
144 Educational Agency ("LEA"). A public charter school is a school with that LEA.

145 (2) The [INSERT NAME OF ENTITY] retains responsibility for special education and shall serve
146 students in public charter schools in a manner consistent with LEA obligations under applicable
147 federal, state, and local law.

148 (H) Powers of Public Charter School

149 (1) A public charter school shall have all the powers necessary for carrying out the terms of its
150 charter contract including the following powers:

151 (a) To receive and disburse funds for school purposes;

152 (b) To secure appropriate insurance and to enter into contracts and leases, free from

153 prevailing wage laws;

154 (c) To contract with an education service provider for the management and operation

155 of the public charter school so long as the school's governing board retains oversight

156 authority over the school;

157 (d) To incur debt in reasonable anticipation of the receipt of public or private funds;

158 (e) To pledge, assign, or encumber its assets to be used as collateral for loans or

159 extensions of credit;

160 (f) To solicit and accept any gifts or grants for school purposes subject to applicable

161 laws and the terms of its charter contract;

162 (g) To acquire real property for use as its facility or facilities, from public or private

163 sources; and,

164 (h) To sue and be sued in its own name.

165 (I) General Requirements

166 (1) A public charter school shall not discriminate against any person on the basis of race, creed,

167 color, sex, disability, or national origin or any other category that would be unlawful if done by

168 a non-charter public school.

169 (2) No public charter school may engage in any sectarian practices in its educational program,

170 admissions or employment policies, or operations.

171 (3) A public charter school shall not discriminate against any student on the basis of national-
172 origin minority status or limited proficiency in English. Consistent with federal civil rights laws,
173 public charter schools shall provide limited English proficient students with appropriate
174 services designed to teach them English and the general curriculum.

175 (4) A public charter school shall not charge tuition and may only charge such fees as may be
176 imposed on other public schools in the state.

177 (5) The powers, obligations, and responsibilities set forth in the charter contract cannot be
178 delegated or assigned by either party.

179 (J) **Applicability of Other Laws, Rules, and Regulations**

180 (1) Public charter schools shall be subject to the same civil rights, health, and safety
181 requirements applicable to other public schools in the state, except as otherwise specifically
182 provided in this Act.

183 (2) Public charter schools shall be subject to the student assessment and accountability
184 requirements applicable to other public schools in the state, but nothing herein shall preclude
185 a public charter school from establishing additional student assessment measures that go
186 beyond state requirements if the school's authorizer approves such measures.

187 (3) Public charter school governing boards shall be subject to and comply with state open
188 meetings and freedom of information laws.

189 (K) **Public Charter School Employees**

190 (1) Public charter schools shall comply with applicable federal laws, rules, and regulations

191 regarding the qualification of teachers and other instructional staff. In accordance with Section
192 2, (G), (4), teachers in public charter schools shall be exempt from state teacher certification
193 requirements.

194 (2) Employees in public charter schools shall have the same rights and privileges as other public
195 school employees except as otherwise stated herein.

196 (3) Employees in public charter schools are eligible for participation in retirement and other
197 benefits programs of the state, if the public charter school chooses to participate.

198 (4) Teachers and other school personnel, as well as governing board trustees, shall be subject
199 to criminal history record checks and fingerprinting requirements applicable to other public
200 schools.

201 (5) Public charter school employees cannot be required to be members of any existing
202 collective bargaining agreement between a school district and its employees. A public charter
203 school may not interfere, however, with laws and other applicable rules protecting the rights
204 of employees to organize and be free from discrimination.

205 (L) Access to Extra-Curricular and Interscholastic Activities

206 (1) A public charter school shall be eligible for state-sponsored or district-sponsored
207 interscholastic leagues, competitions, awards, scholarships, and recognition programs for
208 students, educators, administrators, and schools to the same extent as non-charter public
209 schools.

210 (2) A public charter school student is eligible to participate in extracurricular activities not

211 offered by the student's school at:

212 (a) The school within whose attendance boundaries the student's custodial parent or

213 legal guardian resides; or

214 (b) The non-charter public school from which the student withdrew for the purpose of

215 attending a public charter school.

216 (3) A public charter school student is eligible for extracurricular activities at a non-charter

217 public school consistent with eligibility standards as applied to full-time students of the non-

218 charterpublic school.

219 (4) A school district or non-charter public school may not impose additional requirements on a

220 public charter school student to participate in extracurricular activities that are not imposed

221 on full-time students of the non-charter public school.

222 (5) When selection to participate in an extracurricular activity at a non-charter public school is

223 made on a competitive basis, a public charter school student is eligible to try out for and

224 participate in the activity as provided in this section.

225 (6) The state board of education shall make rules establishing fees for public charter school

226 students' participation in extracurricular activities at non-charter public schools. The rules shall

227 provide that:

228 (a) Public charter school students pay the same fees as other students to participate in

229 extracurricular activities;

230 (b) Public charter school students are eligible for fee waivers similar to other students;

231 (c) For each public charter school student who participates in an extracurricular
232 activity
233 at a non- charter public school, the public charter school shall pay a share of the non-
234 charter public school's costs for the extracurricular activity; and
235 (d) A public charter school's share of the costs of having one or more students
236 participate in an extracurricular activity at non-charter public schools shall reflect
237 state and local tax revenues expended, except capital facilities expenditures, for such
238 extracurricular activities in a non-charter public school divided by total student
239 enrollment of the non-charter public school.
240 (7) In determining a public charter school's share of the costs of an extracurricular activity
241 under Subsections (6)(c) and (d), the state board of education may establish uniform fees
242 statewide based on average costs statewide or average costs within a sample of school
243 districts.

The Parental Choice Scholarship Program Act (Means-Tested Eligibility)

2 *Summary*

3 The Parental Choice Scholarship Program Act creates a scholarship program that
4 provides children from low- and middle-income families the option to attend the
5 public or private elementary or secondary school of their parents' choice.

6 *Model Legislation*

7 Section 1. {The Parental Choice Scholarship Program}

8 Section 2. {Definitions}

(A) "Program" means The Parental Choice Scholarship Program created in this subchapter.

10 (B) "Eligible student" means either:

(1) any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time¹ and is a member of a household whose total annual income does not exceed an amount equal to 2 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced- price lunch program established under 42 USC Section 1751 et seq.² Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years.

18 OR

19 (2) is starting school in [state] for the first time and is a sibling of a student already enrolled in
20 the program.

21 (C) "Parent" includes a guardian, custodian, or other person with the authority to act on behalf of
22 the child.

23 (D) "Department" means the state Department of Public Instruction or an organization chosen by
24 the state.³

(E) "Resident school district" means the public school district in which the student resides.

26 (F) "Participating school" means either a public school outside of the resident school district, a
27 school run by another public entity, or any private school that provides education to elementary
28 and/or second- ary students and has notified the Department of its intention to participate in
29 the program and comply with the program's requirements.⁴

30 **Section 3. {Basic Elements of The Parental Choice Scholarship Program}**

31 (A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to
32 en- roll in and attend a participating school.

33 (B) Any eligible student may attend a participating school until his or her graduation from high
34 school or his or her 21st birthday, whichever comes first.

35 (C) The scholarship amount shall be equal to the lesser of:
36 (1) the participating school's annual cost per pupil, including both operational and capital facility
37 costs; or
38 (2) the dollar amount the resident school district would have received to serve and educate the
39 eligible student from state and local sources had the student enrolled there.⁵

40 (D) The scholarship is the entitlement of the eligible student under the supervision of the student's
41 parent and not that of any school.

42 (E) A participating school may not refund, rebate, or share a student's scholarship with a parent or
43 the student in any manner. A student's scholarship may only be used for educational purposes.

44 (F) Eligible students who qualify for the federal free or reduced-price lunch program may attend
45 any participating school in the Parental Choice Scholarship Program at no charge to the
46 student. That is, the scholarship under this subchapter would cover the cost of all tuition and
47 mandatory fees for such students. Participating schools may charge the difference between
48 the scholarship amount and all tuition and mandatory fees for eligible students from
49 households with incomes that exceed the annual income required to qualify for the free or
50 reduced-price lunch program.⁶

51 (G) A participating school that has more eligible students applying than spaces available shall fill
52 the available spaces by a random selection process, except that participating schools may
53 give preference to siblings of enrolled students and previously enrolled scholarship students
54 under this subchapter.⁷

55 (H) If a student is denied admission to a participating school because it has too few available
56 spaces, the eligible student may transfer his or her scholarship to a participating school that
57 has spaces available.

58 (I) A participating student shall be counted in the enrollment figures for his or her resident

59 school district for the purposes of calculating state aid to the resident school district. The funds
60 needed for a scholarship shall be subtracted from the state school aid payable to the student's
61 resident school district. Any aid the school district would have received for the student in excess of the
62 funds needed for a scholarship will be kept by the state.⁸

63 (J) The Department shall adopt rules consistent with this Act regarding:

64 (1) the eligibility and participation of private schools, including timelines that will maximize
65 student and public and private school participation;

66 (2) the calculation and distribution of scholarships to eligible students;⁹ and

67 (3) the application and approval procedures for scholarships for eligible students and
68 participating schools.

69 **Section 4. {Accountability Standards for Participating Schools}**

70 (A) Administrative Accountability Standards. To ensure that students are treated fairly and kept
71 safe, all participating private schools shall:

72 (1) comply with all health and safety laws or codes that apply to private schools;

73 (2) hold a valid occupancy permit if required by their municipality;

74 (3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹⁰
75 and

76 (4) conduct criminal background checks on employees. The participating school then shall:

77 (a) exclude from employment any people not permitted by state law to work in a private
78 school; and

79 (b) exclude from employment any people that might reasonably pose a threat to the
80 safety of students.¹¹

81 (B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all
82 participating, private schools shall demonstrate their financial accountability.

83 (1) If a participating school receives less than \$250,000 from student scholarships related to
84 this program, they must demonstrate their financial accountability by:

85 (a) annually submitting to the Department a financial information report for the school
86 that complies with uniform financial accounting standards established by the
87 Department and conducted by a certified public accountant;¹² and

88 (b) having an auditor certify that the report is free of material misstatements and fairly
89 represents the costs per pupil, including the costs of the testing required in subsection
90 4(C)(1)(a). The auditor's report shall be limited in scope to those records that are
91 necessary for the Department to make payments to participating schools on behalf of
92 parents for scholarships.

93 (2) If a participating school receives equal to or more than \$250,000 from student
94 scholarships related to this program, they must demonstrate their financial accountability
95 by:

96 (a) provide to the Department of Education a report on the results of an annual financial
97 audit of its accounts and records conducted by an independent certified public
98 accountant in accordance with auditing standards generally accepted in the United
99 States, government auditing standards, and rules promulgated by the Department of
100 Education. The audit report must include a report on financial statements presented
101 in accordance with generally accepted accounting principles. Audit reports must be
102 provided to the Department of Education within 180 days after completion of the
103 participating school's fiscal year. The Department of Education shall review all audit
104 reports submitted pursuant to this paragraph. The Department of Education shall
105 request any significant items that were omitted in violation of a rule adopted by the
106 Department of Education. The items must be provided within 45 days after the date of
107 the request.

108 (3) Demonstrate their financial viability by showing they can repay any funds that might be
109 owed the state, if they are to receive \$50,000 or more during the school year, by:

110 (a) filing with the Department prior to the start of the school year a surety bond
111 payable to the state in an amount equal to the aggregate amount of the Parental
112 Choice Scholarships expected to be paid during the school year to students
113 admitted at the participating school; or

114 (b) filing with the Department prior to the start of the school year financial information
115 that demonstrates the school has the ability to pay an aggregate amount equal to the
116 amount of the Parental Choice Scholarships expected to be paid during the school

117 year to students admitted to the participating school.¹³

118 (C) Academic Accountability Standards. There must be sufficient information about the academic
119 impact Parental Choice Scholarships have on participating students in order to allow parents
120 and taxpayers to measure the achievements of the program, and therefore:

121 (1) participating schools shall:¹⁴

122 (a) annually administer either the state achievement tests or nationally norm-referenced
123 tests that measure learning gains in math and language arts, and provide for value-
124 added assessment, to all participating students in grades that require testing under the
125 state's accountability testing laws for public schools;

126 (b) provide the parents of each student with a copy of the results of the tests on an
127 annual basis, beginning with the first year of testing;

128 (c) provide the test results to the state or an organization chosen by the state¹⁵ on an
129 annual basis, beginning with the first year of testing;

130 (d) report student information that would allow the state to aggregate data by grade
131 level, gender, family income level, and race; and

132 (e) provide rates of high school graduation, college attendance and college graduation
133 for participating students to the Department or an organization chosen by the state in
134 a manner consistent with nationally recognized standards.

135 (2) the state or an organization chosen by the state shall:

136 (a) ensure compliance with all student privacy laws;

137 (b) collect all test results;

138 (c) provide the test results and associated learning gains to the public via a state Web site
139 after the third year of test and test-related data collection.¹⁶ The findings shall be
140 aggregated by the students' grade level, gender, family income level, number of years
141 of participation in the scholarship program, and race;¹⁷

142 (d) provide graduation rates to the public via a state Web site after the third year of test
143 and test-related data collection; and

144 (e) administer an annual parental satisfaction survey that shall ask parents of scholarship
145 students to express:

146 (i) Their satisfaction with their child's academic achievement, including academic
147 achievement at the school their child attended through the scholarship program
148 versus academic achievement at the school previously attended;
149 (ii) Their satisfaction with school safety at the schools their child attends through the
150 scholarship program versus safety at the school previously attended;
151 (iii) Whether their child would have been able to attend their school of choice
152 without the scholarship; and
153 (iv) Their opinions on other topics, items, or issues that the state finds would elicit
154 information about the effectiveness of the scholarship program and the number of
155 years their child has participated in the scholarship program.

156 (D) **Participating School Autonomy.** A participating, private school is autonomous and not an
157 agent of the state or federal government and therefore:

- 158 (1) the Department or any other state agency may not in any way regulate the educational
159 program of a participating, private school that accepts a Parental Choice Scholarship;
- 160 (2) the creation of The Parental Choice Scholarship Program does not expand the
161 regulatory authority of the state, its officers, or any school district to impose any
162 additional regulation of private schools beyond those necessary to enforce the
163 requirements of the program; and
- 164 (3) participating, private schools shall be given the maximum freedom to provide for the
165 educational needs of their students without governmental control.

166 **Section 5. {Responsibilities of the Department of Public Instruction}**

167 (A) The Department shall ensure that eligible students and their parents are informed
168 annually of which schools will be participating in the Parental Choice Scholarship Program.
169 Special attention shall be paid to ensuring that lower-income families are made aware of the
170 program and their options.

171 (B) The Department shall create a standard application that students interested in the Parental
172 Choice Scholarship Program can use to submit to participating schools to establish their
173 eligibility and apply for admissions. Participating schools may require supplemental
174 information from applicants. The Department shall ensure that the application is readily

175 available to interested families through various sources, including the Internet.

176 (C) The Department may bar a school from participation in the Parental Choice Scholarship

177 Program if the Department establishes that the participating school has:

178 (1) intentionally and substantially misrepresented information required under Section 4; or

179 (2) routinely failed to comply with the accountability standards established in Section 4 (A) or

180 (B);¹⁸ or

181 (3) failed to comply with Section 3(E); or

182 (4) failed to comply with Section 4(C); or

183 (5) failed to refund to the state any scholarship overpayments in a timely manner.

184 (D) If the Department decides to bar a participating school from the program, it shall notify

185 eligible students and their parents of this decision as quickly as possible. Participating

186 students attending a school barred by the Department shall retain scholarship program

187 eligibility to attend another participating school.

188 (E) The Department shall adopt rules and procedures as necessary for the administration of the

189 Parental Choice Scholarship Program.

190 **Section 6. {Responsibilities of Resident School Districts}**

191 (A) The resident school district shall provide a participating school that has admitted an eligible

192 student under this program with a complete copy of the student's school records, while

193 complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232

194 g).

195 (B) The resident school district shall provide transportation for an eligible student to and from

196 the participating school under the same conditions as the resident school district is required

197 to provide transportation for other resident students to private schools as per current law.

198 The resident school district will qualify for state transportation aid for each student so

199 transported.

200 **Section 7. {Effective Date}** The Parental Choice Scholarship Program will be in effect beginning with

201 the fall semester of the next school year.

202 ***Endnotes***

203 These notes are intended to provide guidance to legislators on some of the key policy questions they will
204 encounter in drafting and debating school choice legislation. In particular, we would draw your attention
205 to the program evaluation language contained in Section X.

206 1. The definition for an eligible student in this model legislation includes children presently enrolled in a private
207 school as well as children who have dropped out of school. The authors believe that all children from low- and
208 middle-income families should receive public support for their education regardless of whether they are now
209 attending a public or private school. Please note that this inclusive definition will significantly increase the
210 number of students in your state receiving public support for their education and thereby either increase the
211 costs to taxpayers or reduce the level of assistance available to support each student. Legislators wishing to draft
212 a bill that saves money will want to limit eligibility largely to students who attended a public school in the last
213 year. This savings will occur because private school costs are generally much less than public school costs.
214

215 In fact, the difference in public and private school costs makes it possible for legislators to spend the same
216 amount on education while extending eligibility for these scholarships to additional students including children
217 who are attending school in the state for the first time (such as kindergartners and new residents) and many of
218 the low-income families whose children now attend private schools (because they generally use private schools
219 at lower rates).

220 2. The definition for an eligible student is limited to those children in a household whose annual income does not
221 exceed an amount equal to 2 times the income standard used to qualify for the federal free and reduced-price
222 lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL Program is familiar to both
223 schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the
224 income guidelines are used for a number of existing state and federal programs; 4) the federal government
225 annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.
226

227 The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-
228 income families cannot afford the choice of a private school. Experience suggests that most parents' ability to
229 choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We
230 have chosen a multiple of 2 times the FRL standard to reflect this reality. Legislators may wish to use different
231 multiples of this standard but should keep in mind the financial burden many middle-class families face in
232 paying for private schools.
233

234 The draft bill assumes there will be no cap on enrollment or funding. If either type of cap were to be applied, we
235 recommend creating priority status for siblings and children from families eligible for the free and reduced price
236 lunch program.
237

238 3. This bill designates the Department of Public Instruction as the agency regulating the Parental Choice Scholarship
239 Program, though if your state has an existing school choice program, it could be administered in a different
240 department. The intent was to name the existing agency in the state that is responsible for public school
241 finances and private school regulation. Alternatively, legislators may choose to consider other capable
242 departments, create a new small agency, or contract with a private nonprofit organization to oversee the
243 program if they are concerned about the hostility the program would face from the existing state education
244 department.
245

246 4. This model legislation allows students to use a scholarship to attend a public school outside their district as well
247 as a private school. The authors support giving parents the widest possible array of choices so that they can
248 choose the school that best meets their child's needs. Making sure parents can choose either a public or private
249 school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state
250 courts have all cited this broad array of choices as an important part of the reason they have found school
251 choice programs constitutional. The courts have reasoned that these scholarship programs are not an
252 inappropriate subsidy of religious institutions because the purpose was secular (the education of children)
253 and the parents were given many options including public schools, charter schools, private secular schools,

254 and private religious schools. If a state already has open enrollment or some other form of public school
255 choice, then this legislation should be made consistent with the existing program. In fact, if a state already
256 has a broad array of school choice options available to parents, then a state may be able to add an option for
257 just private schools without encountering constitutional questions.

258
259 5. This model legislation bases the scholarship amount on: 1) the costs for educating the student; and 2) the dollar
260 amount the resident school district would have received from state and local sources to serve the student.

261
262 Optimally, a voucher should equal the federal, state, and local dollars that would have been available for the
263 child at his or her resident public school. Unfortunately, tapping federal dollars may bring some unwanted
264 federal regulations to choice schools. Similarly, legislators should be aware that using local dollars may violate
265 the state constitution in some places and may be politically unviable in other states. In these cases, legislators
266 could choose to fund scholarships by drawing an amount equal to the state and local support solely from the
267 state's coffers. This option will significantly change the fiscal effect of the legislation and will likely result in
268 added expenditures for the state. In some states, legislators have chosen to base the scholarship amount on the
269 level of state support normally provided to a student. This will significantly lower the amount of the scholarship
270 and thereby limit the number of schools that are willing to accept them.

271
272 This updated model legislation recommends that students with a parental choice scholarship receive the same
273 public investment in their education as those attending traditional public schools. The authors do not adjust the
274 scholarship amount based upon the student's household income because states do not adjust the public
275 investment for a student attending a traditional public school or a charter school based upon their household's
276 income. This model legislation originally suggested adjusting the scholarship amount based upon the household
277 income of the eligible student. Since then, only one state has adopted that model - Indiana. The Choice
278 Scholarship Program in Indiana provides 90 percent of the state tuition support amount for students in families
279 qualifying for Free and Reduced Price Lunch and 50 percent of the state tuition support amount for students
280 with a family income not exceeding 150 percent of the income guidelines for Free and Reduced Price Lunch.

281
282 6. This model legislation prohibits participating schools from charging tuition and fees for the poorest students,
283 those from households whose incomes are below the FRL standard. The model legislation allows schools to
284 charge students from households whose income is above the FRL standard tuition and fees in addition to the
285 scholarship amount. This will encourage participation by the greatest number of schools while making sure that
286 poor families' options are not limited by their income. Legislators may wish to make it clear that schools can
287 seek in-kind contributions for tuition and fees from student households above the FRL standard. However,
288 legislators should also make sure that the amount of the scholarship plus the tuition and fees charged to
289 students above the FRL standard does not exceed the school's costs for educating a student.

290
291 7. The legislation requires participating schools that are oversubscribed to use a random selection process for
292 determining admissions. This random selection process will assure that students are admitted on an equal basis
293 regardless of their educational attainment, athletic talents, or life challenges. Critics of school choice often
294 falsely allege that schools will "cream" the best students from the list and not take the more difficult challenges.
295 In reality, existing school choice programs require this random selection process and experience shows the
296 students they admit face greater challenges than the average public school student in their district.

297
298 The model legislation makes two exceptions from this random selection process in order to facilitate
299 educational objectives. Children already attending the school on a scholarship are not required to join the lottery
300 for admittance so as not to interrupt their educational experience. Similarly, the siblings of students already
301 attending the school are exempted so families can send all of their children to the same school. A requirement
302 that siblings join a random selection process could produce a logistical nightmare for parents when their
303 children are all admitted to different schools. This would force many such families to unite their children by
304 either choosing a much less desirable school without a waiting list or by exiting the program.

306 Legislators may also wish to consider other preferences for admission including children who have been victims
307 of school violence or attend a failing school as defined in the No Child Left Behind Act.

309 8. The bill has been drafted so that any savings in the cost of educating a student shall accrue to the state. School
310 choice legislation drafted in this manner has the political advantage of either reducing state expenditures or
311 making more funds available for other public schools. Legislators should know that some local school districts
312 will claim that because the state is capturing the savings the program is "draining resources" away from public
313 schools. This would not be the case if the savings were used to increase state aids to public school districts.

314
315 9. It is important that the Department calculate the voucher in strict accordance with the definitions in the
316 legislation. If the Department cannot be trusted to do this objectively, a more detailed description for
317 determining the size of the voucher should be written into the law.

318
319 10. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and
320 national origin. In addition, if private schools are recipients of federal funds, they are subject to
321 nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If
322 you choose to include language banning discrimination in hiring on the basis of race, color, national origin, or
323 disability, take care not to interfere with the ability of religious institutions to hire individuals who share their
324 religious beliefs.

325
326 11. The model legislation provides schools with the tools they need to ensure that students will be safe. The schools
327 are required to conduct criminal background checks on existing and potential employees, and then they are
328 given the flexibility to determine from this information whether the employee might pose a risk to students.
329 This language is valuable in two cases:

330
331 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools,
332 and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student
333 safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could
334 hire someone with a criminal background who they believe is no longer a threat to students, such as someone
335 who committed nonviolent crimes or has decades-old violations followed by a clean record. This language
336 would give schools the responsibility to do background checks and the power to exclude potential risks from the
337 school.

338
339 12. The purpose of the financial information report is to make sure that the Department can ascertain the
340 costs of educating a student at the school and to ensure public funds are used appropriately. The legislation
341 does not call for an independent audit because this would be unnecessarily expensive and invasive for many
342 private schools.

343
344 13. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that
345 public funds are secure. The first method employs a market-based means of demonstrating viability. Private
346 companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds
347 that might be owed the state. They will therefore conduct the checks necessary to protect their financial
348 interest as well as the taxpayers' financial interests. Surety bonds can be expensive (one to three percent of the
349 amount covered) or invasive for some institutions, so the legislation allows schools to demonstrate by some
350 other means that they have the financial wherewithal to pay back any amount they might owe the state. This
351 might include things like personal guarantees, reserve accounts, or escrow accounts.

352
353 14. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and
354 consistent information about the academic performance of participating students will help empower parents
355 and will also provide the public and policymakers with the information they need to evaluate the effectiveness
356 of the program and participating schools. Therefore, all participating schools should be required to annually
357 administer either the state achievement tests or nationally norm-referenced tests that demonstrate learning

358 gains in math and language arts. Most private schools already administer such norm-referenced tests, so this
359 provision should not be seen as burdensome. It is important, however, to give schools the ability to choose
360 between a state test and the nationally norm-referenced test. Many private schools would simply refuse to
361 participate in the program if they were forced to administer the state tests, because it implies that they are no
362 longer independent of the state. The reason many opponents to school choice promote state testing of private
363 schools' students is, in fact, because they want to discourage school participation and quietly destroy the
364 program.

365
366 Participating schools should provide the parents of each student with a copy of the results and should provide
367 the results to the state or an organization chosen by the state, as described in Endnote 15, in a manner that
368 protects the identity and privacy of individual students. The purpose of this testing requirement should be to
369 provide each parent with a measure of their student's achievement and to allow the taxpayers to measure the
370 achievements of the program. The number and scope of the tests should be carefully limited to ensure that
371 there is sufficient information to demonstrate the achievements of the program without being so exhaustive or
372 prescriptive as to end up dictating the curriculum at participating schools. The costs of the testing requirements
373 for a private school must be included in the costs used to determine the size of the scholarships at that school.
374 If legislators would like an extensive longitudinal study, refer to Endnote 17 and its suggested language to create
375 such a review.
376

377 15. Like in Endnote 3, if legislators are concerned about the hostility the program would face from the existing
378 Department of Public Instruction, they may choose to create a new small agency or contract with a private
379 nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an
380 organization chosen by the state to oversee this program allows for the flexibility to implement market-based
381 models of academic accountability. In these cases, test results could be reported to a consumer organization,
382 such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to
383 which they may send their children.
384

385 16. The purpose of administering tests is to create transparency in participating students' academic progress and to
386 demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more
387 than one school year. When this information is made public in the first year, the media and opponents often
388 attack school choice programs, noting that participating students are not performing as well as their public
389 school counterparts. This effect is natural because often the students who participate in choice programs are not
390 doing well in public schools and are academically far behind their participating school counterparts, and it will
391 take them a few years to catch up to grade level.

392
393 It is important to note that there are multiple ways to achieve the goal of academic accountability in school
394 choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the
395 most effective reporting process. For instance, if the goal is to see how the program is affecting participating
396 students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to
397 evaluate participating school outputs as a tool to help parents choose the best school, scores should be released
398 by participating school. You might also consider a sliding scale approach, where the more participating students
399 a school enrolls, the greater its obligations for transparency and accountability.
400

401 17. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a
402 scientific evaluation of the program using the testing data established in Section 4(C). It is crucial that the
403 legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a
404 legislative service agency or a trusted research university department. We have provided model language for
405 such an independent evaluation of the program in Section X below. The outlined research would evaluate not
406 only whether students who participate in the program are better off but also, more importantly, whether the
407 competition from private schools improves the performance of public schools. The outlined longitudinal study
408 includes a comparison of students in the choice program with a similar cohort in the public schools for at least
409 five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly,

410 legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund
411 such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency
412 would have to be selected. It will be tempting for legislators to further define the details of the study, but they
413 should take care not to dictate the methodology or the results in order to maintain the credibility of the
414 research.

415
416 18. The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic
417 regulator cannot shut down the program by banning schools with a modest occasional violation such as turning
418 in a report late.

419 **Section X. {Evaluation of the Parental Choice Scholarship Program}**

420 (A) *The Legislative Service Agency may contract with one or more qualified researchers who have previous experience*
421 *evaluating school choice programs to conduct a study of the program with funds other than statefunds.*

422 (B) *The study shall assess:*

423 (1) *the level of parental satisfaction with the program;*

424 (2) *the level of participating students' satisfaction with the program;*

425 (3) *the impact of the program and the resulting competition from private schools on the resident school districts,*
426 *public school students, and quality of life in a community;*

427 (4) *the impact of the program on public and private school capacity, availability and quality; and*

428 (5) *participating student's academic performance and graduation rates in comparison to students who applied for*
429 *a*

430 *scholarship under this program but did not receive one because of random selection.*

431 (C) *The researchers who conduct the study shall:*

432 (1) *apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study.*

433 (2) *protect the identity of participating schools and students by, among other things, keeping anonymous all*
434 *disaggregated data other than that for the categories of grade level, gender, family income level, race and*
435 *ethnicity.*

436 (3) *provide the Legislature with a final copy of the evaluation of the program.*

437 (D) *The relevant public and participating private schools shall cooperate with the research effort by providing student*
438 *assessment results and any other data necessary to complete this study.*

439 (E) *The Legislative Service Agency may accept grants to assist in funding this study.*

440 (F) *The study shall cover a period of five years. The legislature may require periodic reports from the researchers.*
441 *After publishing their results, the researchers shall make their data and methodology available for public review while*
442 *complying with the requirements of FERPA (20 USC Section 1232 g).*

443 Additional Note:

- 444 It is fairly common for legislators to consider including severability clauses in new legislation.
- 445 Legislators should make sure that if such clauses are included and excised, the remaining
- 446 legislation produces a program that is workable and achieves the original intent of the bill.

The Great Schools Tax Credit Program Act (Scholarship Tax Credits)

2 *Summary*

3 The Great Schools Tax Credit Program authorizes a tax credit for individual and
4 corporate contributions to organizations that provide educational scholarships to
5 eligible students so they can attend qualifying public or private schools of their
6 parents' choice.

7 *Model Legislation*

8 Section 1. {The Great Schools Tax Credit Program Act}

9 Section 2. {Definitions}

10 (A) "Program" means the Great Schools Tax Credit Program.

11 (B) "Eligible student" means a student who:

(1) is a member of a household whose total annual income the year before he or she receives an educational scholarship under this program does not exceed an amount equal to 2 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of income until the student graduates high school or reaches 21 years of age.¹

18 (2) was eligible to attend a public school in the preceding semester or is starting school in [state]
19 for the first time;²

20 (3) Resides in [state] while receiving an educational scholarship. OR

21 (4) is starting school in [state] for the first time and is a sibling of a student already enrolled in the
22 program.

23 (C) "Low-income eligible student" means a student who qualifies for a free or reduced-price lunch
24 under the national free or reduced-price lunch program established under 42 USC Section 1751
25 et seq.³

26 (D) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the
27 child

28 (E) "Department" means the state Department of Revenue.

(E) "Qualifying school" means either a public school outside of the resident school district, or any

30 private school that provides education to elementary and/or secondary students and has
31 notified the Department of its intention to participate in the program and comply with the
32 program's requirements.⁴

33 (G) "Educational scholarships" means grants to students to cover all or part of the tuition and fees
34 at either a qualifying private school or a qualifying public school, including transportation to a
35 public school outside of a student's resident school district.

36 (H) "Scholarship Granting Organization" means an organization that complies with the
37 requirements of the state's school scholarship tax credit program and provides or is approved to
38 provide educational scholarships to students attending any qualifying schools of their parents'
39 choice.

40 (I) "Test" means either the state achievement test or nationally norm-referenced test chosen by the
41 participating school.

42 **Section 3. {Basic Elements of the Great Schools Tax Credit Program}**

43 (A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may
44 claim a credit for a contribution made to a scholarship granting organization.

45 (B) The tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an
46 amount equal to the total contributions made to a scholarship granting organization for
47 educational scholarships during the taxable year for which the credit is claimed up to 100
48 percent of the taxpayer's tax liability.⁵

49 (C) The tax credit may be claimed by a corporate taxpayer in an amount equal to the total
50 contributions made to a scholarship granting organization for educational scholarships during
51 the taxable year for which the credit is claimed up to 100 percent of the taxpayer's tax liability.⁶

52 (D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward
53 a tax credit under this program for three years.⁶

54 **Section 4. {Responsibilities of Scholarship Granting Organizations}**⁷

55 (A) **Administrative Accountability Standards.** All scholarship granting organizations shall:

56 (1) notify the Department of their intent to provide educational scholarships to students
57 attending qualifying schools;

58 (2) demonstrate to the Department that they have been granted exemption from the federal in-
59 come tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

60 (3) distribute periodic scholarship payments as checks made out to a student's parent or
61 guardian and mailed to the qualifying school where the student is enrolled. The parent or
62 guardian must endorse the check before it can be deposited;

63 (4) provide a Department-approved receipt to taxpayers for contributions made to the
64 organization;

65 (5) ensure that at least 90 percent of their revenue from donations is spent on educational
66 scholarships, and that all revenue from interest or investments is spent on educational
67 scholarships;

68 (6) spend each year a portion of their expenditures on scholarships for low-income eligible stu-
69 dents equal to or greater than the percentage of low-income eligible students in the county
70 where the scholarship granting organization expends the majority of its scholarships;⁸

71 (7) ensure that at least X percent of first-time recipients of educational scholarships were not
72 continuously enrolled in a private school during the previous year;⁹

73 (8) not grant scholarships based upon a student's race, color, creed or national origin and not
74 grant multiyear scholarships to participating students in one approval process;

75 (9) carry forward no more than 25 percent of their revenue from donations from the state fiscal
76 year in which they were received to the following state fiscal year;

77 (10) cooperate with the Department to conduct criminal background checks on all of their
78 employees and board members and exclude from employment or governance any
79 individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;¹⁰

80 (11) provide scholarships for eligible students to attend any participating school of the
81 parent's choosing, and not limit scholarships for attendance at only a subset of participating
82 schools.

83 (12) ensure that scholarships are portable during the school year and can be used at any
84 qualifying school that accepts the eligible student according to a parent's wishes. If a
85 student moves to a new qualifying school during a school year, the scholarship amount may
86 be prorated.

87 (13) publicly report to the Department by June 1 of each year the following information
88 prepared by a certified public accountant regarding their grants in the previous calendar
89 year:
90 (a) the name and address of the student support organization;
91 (b) the total number and total dollar amount of contributions received during the previous
92 calendar year; and
93 (c) the total number and total dollar amount of educational scholarships awarded during
94 the previous calendar year, the total number and total dollar amount of educational
95 scholarships awarded during the previous year to students qualifying for the federal free
96 and reduced-price lunch program,¹¹ and the percentage of first-time recipients of
97 educational scholarships who were enrolled in a public school during the previous year.
98 (14) ensure scholarships are not provided for students to attend a school with paid staff or
99 board members, or relatives thereof, in common with the scholarship granting organization.

100 (B) Financial Accountability Standards.¹²

101 (1) All scholarship granting organizations shall demonstrate their financial accountability.:
102 (a) If a scholarship granting organization provides less than \$250,000 in scholarships to
103 eligible students through this program, it shall:
104 (i) annually submitting to the Department a financial information report for the
105 organization that complies with uniform financial accounting standards established by
106 the Department and conducted by a certified public accountant; and
107 (ii) having the auditor certify that the report is free of material misstatements.
108 (b) If a scholarship granting organization provides equal to or more than \$250,000 in
109 scholarships to eligible students through this program, it shall:
110 (i) provide to the Department of Revenue a report on the results of an annual financial
111 audit of its accounts and records conducted by an independent certified public
112 accountant in accordance with auditing standards generally accepted in the United
113 States, government auditing standards, and rules promulgated by the Department of
114 Revenue. The audit report must include a report on financial statements presented in
115 accordance with generally accepted accounting principles. Audit reports must be

116 provided to the Department of Revenue within 180 days after completion of the
117 scholarship granting organization's fiscal year. The Department of Revenue shall review
118 all audit reports submitted pursuant to this paragraph. The Department of Revenue
119 shall request any significant items that were omitted in violation of a rule adopted by the
120 Department of Revenue. The items must be provided within 45 days after the date of the
121 request.

122 (2) All participating private schools shall demonstrate financial viability, if they are to receive
123 donations of \$50,000 or more during the school year, by:

124 (a) filing with the scholarship granting organization prior to the start of the school year a
125 surety bond payable to the scholarship granting organization in an amount equal to the
126 aggregate amount of contributions expected to be received during the school year; or

127 (b) filing with the scholarship granting organization prior to the start of the school year
128 financial information that demonstrates the financial viability of the participating school.

129 **Section 5. {Program Oversight of Participating Schools}**

130 (A) Each scholarship granting organization shall collect written verification from participating,
131 private schools that accept its scholarship students that those schools:

132 (1) comply with all health and safety laws or codes that apply to private schools;

133 (2) hold a valid occupancy permit if required by their municipality;

134 (3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹³ and

135 (4) conduct criminal background checks on employees and then:

136 (a) exclude from employment any people not permitted by state law to work in a private
137 school; and

138 (b) exclude from employment any people that might reasonably pose a threat to the safety
139 of students.¹⁴

140 (B) Academic Accountability Standards. There must be sufficient information about the academic
141 impact scholarship tax credits have on participating students in order to allow parents and
142 taxpayers to measure the achievements of the program, and therefore:

143 (1) each scholarship granting organization shall ensure that participating schools that accept its
144 scholarship shall:¹⁵

145 (a) annually administer either the state achievement tests or nationally norm-referenced
146 tests that measure learning gains in math and language arts, and provide for value-added
147 assessment, to all participating students in grades that require testing under the state's
148 accountability testing laws for public schools;

149 (b) allow costs of the testing requirements to be covered by the scholarships distributed by
150 the scholarship granting organizations;

151 (c) provide the parents of each student who was tested with a copy of the results of the
152 tests on an annual basis, beginning with the first year of testing;

153 (d) provide the test results to the Department or an organization chosen by the state¹⁶ on an
154 annual basis, beginning with the first year of testing;

155 (e) report student information that would allow state to aggregate data by grade level,
156 gender, family income level, and race;

157 (f) provide rates of high school graduation, college attendance and college graduation for
158 participating students to the Department or an organization chosen by the state in a manner
159 consistent with nationally recognized standards; and

160 (g) provide to the Department or an organization chosen by the state the results from an
161 annual parental satisfaction survey, including information about the number of years
162 that the parent's child has participated in the scholarship program. The annual
163 satisfaction survey shall ask parents of scholarship students to express:

164 (i) Their satisfaction with their child's academic achievement, including academic
165 achievement at the school their child attended through the scholarship program versus
166 academic achievement at the school previously attended;

167 (ii) Their satisfaction with school safety at the schools their child attends through the
168 scholarship program versus safety at the schools previously attended;

169 (iii) Whether their child would have been able to attend their school of choice without
170 the scholarship; and

171 (iv) Their opinions on other topics, items, or issues that the department finds would elicit

172 information about the effectiveness of the scholarship program.¹⁷

173 (2) the Department or an organization chosen by the state shall:

174 (a) ensure compliance with all student privacy laws;

175 (b) collect all test results;

176 (c) provide the test results and associated learning gains to the public via a state Web site

177 after the third year of test and test-related data collection.¹⁸ The findings shall be

178 aggregated by the students' grade level, gender, family income level, number of years of

179 participation in the scholarship program, and race;¹⁹ and

180 (d) provide graduation rates to the public via a state Web site after the third year of test and

181 test-related data collection; and

182 **Section 6. {Responsibilities of the Department of Revenue}**

183 (A) The Department shall adopt rules and procedures consistent with this act as necessary to
184 implement the program.

185 (B) The Department shall provide a standardized format for a receipt to be issued by a scholarship
186 granting organization to a taxpayer to indicate the value of a contribution received. The
187 Department shall require a taxpayer to provide a copy of this receipt when claiming the Great
188 Schools Tax Credit.

189 (C) The Department shall provide a standardized format for a scholarship granting organization to
190 report the information in Section 4(A)(10) above.

191 (D) The Department shall have the authority to conduct either a financial review or audit of a
192 scholarship granting organization if possessing evidence of fraud.

193 (E) The Department may bar a scholarship granting organization from participating in the program if
194 the Department establishes that the scholarship granting organization has intentionally and
195 substantially failed to comply with the requirements in Section 4 or Section 5.

196 (F) If the Department decides to bar a scholarship granting organization from the program, it shall
197 notify affected scholarship students and their parents of this decision as quickly as possible.

198 (G) The Department shall allow a taxpayer to divert a prorated amount of state income tax
199 withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum

200 credit allowed by law, including carry-over credits. The Department shall have the authority to
201 develop a procedure to facilitate this process.²⁰

202 **Section 7. {Responsibilities of Qualifying Schools}**

203 (A) All qualified schools shall be required to operate in [state].
204 (B) All qualifying schools shall comply with all state laws that apply to private schools regarding
205 criminal background checks for employees and exclude from employment any people not
206 permitted by state law to work in a private school.

207 **Section 8. {Effective Date}** The Great Schools Tax Credit may be first claimed in the next calendar year.

208 **Footnotes**

209 These notes are intended to provide guidance to legislators on some of the key policy questions they
210 will encounter in drafting and debating school choice tax credit legislation. In general, legislators and
211 the public seek greater state regulation of programs directly funded by the government than of tax
212 credit programs under the belief that tax credits are private funds kept by taxpayers rather than public
213 funds expended by governments. However, insufficient accountability regulation can produce situations
214 that undermine public and legislative support for the program. In recognition of this potential, we have
215 chosen to recommend the establishment and state regulation of scholarship granting organizations
216 rather than heavy government regulation of private contributions and private schools.

217 1. The definition for an eligible student is limited to those children in a household whose annual income does not
218 exceed an amount equal to 2 times the income standard used to qualify for the federal free and reduced-price lunch
219 program (FRL). The authors chose this standard for several reasons: 1) the FRL program is familiar to both schools
220 and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income
221 guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts
222 the income guidelines; and 5) the income guidelines are adjusted for family size.

223
224 The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income
225 families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a
226 private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen
227 a multiple of 2 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this
228 standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

229
230 2. The definition for an eligible student in this model legislation includes students presently enrolled in a private
231 school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's
232 education at a non-resident public school or a private school. For this reason some states with a scholarship tax
233 credit program have chosen to place a cap on the total dollar amount eligible for the tax credit. If legislators decide
234 to include a statewide tax credit cap in the legislation, the authors strongly recommend that language should be
235 added to automatically allow the cap to increase by twenty-five (25) percent in any year after ninety (90) percent of

236 the cap was reached in the previous year. Additionally, if legislators decide include a statewide tax credit cap, we
237 recommend creating priority status for siblings and children from families eligible for the free and reduced price
238 lunch program.

239
240 Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit eligibility to
241 students who attended a public school in the last year or are starting school in their state for the first time. In this
242 case, there may actually be a savings for state taxpayers since a scholarship covering private school costs in many
243 cases will be less than the cost of state support provided to students attending a public school.

244

245 3. This model legislation creates an additional class of eligible students who are from low-income families. Scholarship
246 granting organizations are required to make sure that an appropriate proportion of their scholarship assistance
247 reaches the poorest families in the state (see Section 4 (A)(6)). This ensures that assistance reaches the families who
248 are least able to afford the school of their choice.

249

250 4. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a
251 private school. The authors support giving parents the widest possible array of choices so that they can choose the
252 school that best meets their child's needs. Making sure parents can choose either a public or private school is not
253 only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited
254 this broad array of choices as an important part of the reason they have found school choice programs
255 constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of
256 religious institutions because the purpose was secular (the education of children) and the parents were given many
257 options including public schools, charter schools, private secular schools, and private religious schools. If a state
258 already has open enrollment or some other form of public school choice, then this legislation should be made
259 consistent with the existing program. In fact, if a state already has a broad array of school choice options available
260 to parents, then a state may be able to add an option for just private schools without encountering constitutional
261 questions.

262

263 5. The bill allows an individual, married couple, or corporation to claim a tax credit up to 100 percent of their tax
264 liability. Presently, Arizona, Florida, Iowa, Kansas, Louisiana, and Virginia allow taxpayers to claim a tax credit for
265 donations to scholarship organizations equal to 100 percent of their tax liability. Georgia limits the tax credit to 75
266 percent of a taxpayer's liability while South Carolina chose 60 percent and Indiana and Alabama chose 50 percent.
267 While most states have chosen to implement a cap on the dollar amount of the tax credit available to each
268 taxpayer, this recommended methodology is more equitable since it adjusts the cap to treat all taxpayers
269 proportionately the same.

270
271 Depending on the state, additional corporate revenue streams from which a credit may be claimed for a
272 contribution made to a scholarship granting organization may be listed in legislation. For example, states may have
273 the following tax revenue streams from which to draw: insurance premium tax, alcohol beverage excise tax, direct
274 pay sales and use tax, and oil and gas severance tax liability.

275

276 6. The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes and
277 corporate profits are often quite volatile. As a result, taxpayers may not have a liability against which to claim a
278 credit in certain years. Yet the need for scholarship assistance by a student is likely to be relatively constant.
279 Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that
280 taxpayers have an incentive to continue to contribute to scholarship granting organizations even in years in which
281 the taxpayer has no tax liability. The number does not have to be three years, but should match the existing state
282 standard for tax deduction and carry forwards.

283

284 7. The model legislation requires the establishment of scholarship granting organizations to protect scholarship
285 recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government
286 regulation of private contributions and private schools. We prefer rigorous self-regulation by taxpayers and
287 independent regulation of private school participation by SGO's in lieu of intrusive government regulation.

288
289 8. The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best
290 meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously
291 greatest among low- income families. This requirement ensures that a proportionate amount of the scholarship
292 assistance is given to the families financially least able to send their child to the school of their choice.
293

294 9. The goal of the program is to expand the number of families who can afford to send their children to the school of
295 their choice. Therefore, legislators may wish to require that a certain percentage of the scholarship assistance go to
296 children who were not already in private schools. This will also hold down the costs of the program and increase the
297 efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states
298 that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be
299 claimed for scholarship assistance to students previously attending private schools.
300

301 10. The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship
302 assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting
303 organizations the responsibility to do background checks, which gives them the power to exclude potential risks
304 from the organization and alleviates liability issues for their employment decisions.
305

306 11. Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give
307 policymakers a sense of the students that are being served by scholarship tax credit programs. These income
308 guidelines are broadly known and already used in private schools.
309

310 12. The purpose of the financial information report and the demonstration of financial viability is to protect both the
311 contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The
312 model legislation pro- vides for two methods for participating schools to demonstrate financial viability to ensure
313 that scholarship funds are secure. The first method employs a market-based means of demonstrating viability.
314 Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that
315 might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect
316 their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be
317 expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other
318 means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like
319 personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit
320 because this would be unnecessarily expensive and invasive for these private organizations.
321 13. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and
322 national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination
323 requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).
324

325 14. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring
326 even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire
327 individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their
328 mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a
329 threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a
330 clean record. This language would give schools the responsibility to do background checks, the power to exclude
331 potential risks from the school, and the liability for their employment decisions.
332

333 15. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and
334 consistent information about the academic performance of participating students will help empower parents and
335 will also provide the public and policymakers with the information they need to evaluate the effectiveness of the
336 program and participating schools. Therefore, all participating schools should be required to annually administer
337 either the state achievement tests or nationally norm-referenced tests that demonstrate learning gains in math and
338 language arts. Most private schools already ad- minister such norm-referenced tests so this provision should not be
339 seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the

340 nationally norm-referenced test. Many private schools would simply refuse to participate in the program if they
341 were forced to administer the state tests, because it implies that they are no longer independent of the state. The
342 reason many opponents to school choice promote state testing of private schools is, in fact, because they want to
343 discourage school participation and quietly destroy the program.

344
345 Participating schools should provide the parents of each student with a copy of the results and should provide the
346 results to the state or an organization chosen by the state, as described in Endnote 16, in a manner that protects the
347 identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent
348 with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program.
349 The number and scope of the tests should be carefully limited to ensure that there is sufficient information to
350 demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating
351 the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote 18
352 and its suggested language to create such a review.

353
354 16. If legislators are concerned about the hostility the program would face from the existing state revenue department,
355 they may choose to create a new small agency or contract with a private nonprofit organization to oversee the
356 academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this
357 program allows for the flexibility to implement market-based models of academic accountability. In these cases,
358 test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess
359 participating schools' test results and compare schools to which they may send their children.

360
361 17. If legislators are concerned that parents of participating students may not feel comfortable honestly answering a
362 survey administered by a SGO through which their child receives a scholarship, they can require that the
363 Department or an organization chosen by the state administer the parental satisfaction survey instead.

364
365 18. The purpose of administering tests is to create transparency in participating students' academic progress and to
366 demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more
367 than one school year. When this information is made public in the first year, the media and opponents often attack
368 school choice programs, noting that participating students are not performing as well as their public school
369 counterparts. This effect is natural because often the students who participate in choice programs are not doing well
370 in public schools and are academically far behind their participating school counterparts, and it will take them a few
371 years to catch up to grade level.

372
373 It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice
374 programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective
375 reporting process. For instance, if the goal is to see how the program is affecting participating students' learning
376 gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating
377 school outputs as a tool to help parents choose the best school, scores should be released by the participating
378 school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the
379 greater its obligations for transparency and accountability.

380
381 19. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific
382 evaluation of the program using the testing data established in Section 5(B). It is crucial that the legislature give the
383 oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a
384 trusted research university department. We have provided model language for such an independent evaluation of
385 the program in Section X below. The outlined research would evaluate not only whether students who participate
386 in the program are better off but also, more importantly, whether the competition from private schools improves
387 the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice
388 program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a
389 longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative
390 service agency) to accept private grants to completely fund such a study. In some states, the legislature is not
391 allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for

392 legislators to further define the details of the study, but they should take care not to dictate the methodology or the
393 results in order to maintain the credibility of the research.

394
395 20. The legislation allows the Department to establish a mechanism that facilitates regular contributions from a
396 taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a
397 tax credit. This would likely encourage greater contributions to scholarship support organizations.

398
399 **Section X. {Evaluation of the Great Schools Tax Credit Program}**

400 (A) *The Legislative Service Agency may contract with one or more qualified researchers who have previous experience*
401 *evaluating school choice programs to conduct a study of the program with funds other than statefunds.*

402 (B) *The study shall assess:*

403 (1) *the level of participating students' satisfaction with the program;*

404 (2) *the level of parental satisfaction with the program;*

405 (3) *the fiscal impact to the state and resident school districts of the program;*

406 (4) *the resulting competition from private schools on the resident school districts, public school students, and quality*

407 *of life in a community;*

408 (5) *the impact of the program on public and private school capacity, availability and quality; and*

409 (6) *participating students' academic performance and graduation rates in comparison to students who applied for a*
410 *scholarship under this program but did not receive one because of random selection.*

411 (C) *The researchers who conduct the study shall:*

412 (1) *apply appropriate analytical and behavioral science methodologies to ensure public confidence in thestudy;*

413 (2) *protect the identity of participating schools and students by, among other things, keeping anonymous all dis-*

414 *aggregated data other than that for the categories of grade level, gender and race and ethnicity; and*

415 (3) *provide the legislature with a final copy of the evaluation of the program.*

416 (D) *The relevant public and private participating schools shall cooperate with the research effort by providing student*
417 *assessment results and any other data necessary to complete this study.*

418 (E) *The Legislative Service Agency may accept grants to assist in funding this study.*

419 (F) *The study shall cover a period of 13 years. The legislature may require periodic reports from the researchers. After*
420 *publishing their results, the researchers shall make their data and methodology available for public review while complying*
421 *with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232g).*

422 **Additional Note:**

423 It is fairly common for legislators to consider including severability clauses in new legislation. Legislators
424 should make sure that if such clauses are included and exorcised, the remaining legislation produces a
425 program that is workable and achieves the original intent of the bill.

The Education Savings Account Act

Summary

The Education Savings Account Act allows parents to use the funds that would have been allocated to their child at their resident school district for an education program of the parents' choosing.

Model Legislation

Section 1. { The Education Savings Account Act } Section

2. {Definitions}

(A) "Program" means The Education Savings Account program created in this subchapter.

(B) "Eligible student" means either:

1) any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time.^[i] A first-time enrollee must be and is a member of a household whose total annual income does not exceed an amount equal to 2 times 2.5 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years.

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OR

2) is starting school in [state] for the first time and is a sibling of a student already enrolled in the program.

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(C) "Parent" means a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the child.

(D) "Department" means the state Department of Public Instruction or an organization chosen by the state.^[ii]

(E) "Resident school district" means the public school district in which the student resides.

(F) "Participating school" means any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.^[iii]

(G) "Private tutoring" means tutoring services provided by tutors accredited by a regional or national accrediting organization.

(H) "Eligible postsecondary institution" means a community college, an accredited university or an accredited private postsecondary institution.

Section 3. {Basic Elements of The Education Savings Account Act}

(A) Any parent of an eligible student shall qualify for the state to make a grant to their child's education savings account if the parents sign an agreement promising:

(1) To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science;

(2) Not to enroll their eligible student in a district or charter school.

(B) The state shall deposit into an Education Savings Account the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there. some or all of the state aid that would otherwise have been provided to the resident school district for the eligible student had they enrolled in the resident school districtA participating student shall be counted in the enrollment figures for his or her resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the student's resident school district.^[iv];

(C) Parents participating in the Education Savings Account program shall agree to use the funds deposited in their eligible student's accounts for the following qualifying expenses to educate the eligible student:

(1) Tuition and fees at a participating school.

- (2) Textbooks required by a participating school.
- (3) Payment to a licensed or accredited tutor.
- (4) Payment for purchase of curriculum.
- (5) Tuition or fees for a non-public online learning program.
- (6) Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, and any examinations related to college or university admission.
- (7) Contributions of up to \$2000 annually to the eligible student's qualified tuition program established pursuant to 26 USC Section 530 or 11 USC Section 529.
- (8) Educational services for pupils with disabilities from a licensed or accredited practitioner or provider.
- (9) Tuition and fees at an eligible postsecondary institution.
- (10) Textbooks required for college or university courses.
- (11) Fees for account management by private financial management firms approved by the Department.

(D) ~~Grant amounts to Education Savings Accounts shall be calculated according to the following schedule:~~^[iv]

- (1) ~~For students from households qualifying for the federal free or reduced-price lunch program, the amount granted to the student's Education Savings Account shall be equal to the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~
- (2) ~~For students from households with an annual income greater than the amount required to qualify for the free or reduced price lunch program but less than 1.5 times that amount, the amount granted to the student's Education Savings Account shall be equal to seventy-five percent of the dollar amount the resident~~

~~school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

~~(3) For students from households with an annual income of greater than 1.5 times the amount required to qualify for the free or reduced price lunch program but less than 2.0 times that amount, the amount granted to the student's Education Savings Account shall be equal to fifty percent of the dollar~~

~~amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

~~(4) For students from households with an annual income of greater than 2.0 times the amount required to qualify for the free or reduced price lunch program but less than 2.5 times that amount, the amount granted to the student's Education Savings Account shall be equal to twenty-five percent of the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.~~

(DE) A participating school, private tutor, eligible postsecondary institution or other educational provider may not refund, rebate, or share a student's grant with a parent or the student in any manner. The funds in an Education Saving Account may only be used for educational purposes.

(EF) Parents will be allowed to make payments for the costs of educational programs and services not covered by the funds in their accounts.

(FG) A participating student shall be counted in the enrollment figures for his or her resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a grant to an Education Savings Account shall be subtracted from the state school aid payable to the student's resident school district.

Section 4. {Administration of the Education Savings AccountAct.}

(A) The Department^[w] will qualify private financial management firms to manage Education Savings Accounts.

(B) The Department will have the authority to conduct or contract for the auditing of accounts, and will at a minimum conduct random audits of accounts on an annual basis. The Department will have the authority to make any parent of an eligible student ineligible for the Education Savings Account program in the event of substantial misuse of the funds in the account.

(C) The Department will have the authority to refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

(D) The Department shall provide parents of participating students with a written explanation of the allowable uses of education savings accounts, the responsibilities of parents and the duties of the Department.

(E) The Department may deduct an amount from the grants to education savings accounts to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent.

(F) The Department shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(G) The Department shall make payments to eligible students' Education Savings Accounts on a quarterly basis.

Section 5. {Accountability Standards for Participating Schools.} -

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating private schools shall:

(1) Comply with all health and safety laws or codes that apply to private schools;

(2) Hold a valid occupancy permit if required by their municipality;

(3) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;^[vii] and

(4) Conduct criminal background checks on employees. The participating school then shall:

(a) Exclude from employment any people not permitted by state law to work in a private school; and

(b) Exclude from employment any people that might reasonably pose a threat to the safety of students.^[viii]

(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all participating schools shall:

- (1) Provide parents with a receipt for all qualifying expenses at the school.
- (2) Demonstrate their financial viability by showing they can repay any funds that might be provided from Education Savings Accounts, if they are to receive \$50,000 or more during the school year, by:
 - (a) Filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the funds from Education Savings Accounts expected to be paid during the school year from students admitted at the participating school; or
 - (b) Filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the funds from Education Savings Accounts expected to be paid during the school year to students admitted to the participating school.^[viii]

(C) Academic Accountability Standards. In order to allow parents and taxpayers to measure the achievements of the program:

- (1) Parents shall ensure that:^[ix]
 - (a) Each year their eligible student takes either the state achievement tests or nationally norm-referenced tests that measure learning gains in math and language arts, and provide for value-added assessment;
 - (b) The results of these tests are provided to the state or an organization chosen by the state on an annual basis,^[x] beginning with the first year of testing;
 - (c) The student information is reported in a way that would allow the state to aggregate data by grade level, gender, family income level, and race; and
 - (d) The state or an organization chosen by the state will be informed of the eligible student's graduation from high school.

(2) The state or an organization chosen by the state shall:

- (a) Ensure compliance with all student privacy laws;
- (b) Collect all test results;
- (c) Provide the test results, associated learning gains and graduation rates to the public via a state Web site after the third year of test and graduation- related data collection.^[xii] The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race;^[xiii]
- (d) Provide rates for high school graduation, college attendance and college graduation for participating students rates to the public via a state Web site after the third year of test and test-related data collection; and
- (e) Administer an annual parental satisfaction survey that shall ask parents of students receiving education savings accounts to express:
 - (1) Their satisfaction with the program; and
 - (2) Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of education savings accounts program and the number of years their child has participated in the program.

(D) Participating School Autonomy. A participating private school is autonomous and not an agent of the state or federal government and therefore:

- (1) The Department or any other state agency may not in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;
- (2) The creation of The Education Savings Account Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 6. {Responsibilities of the Department of Public Instruction}

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Education Savings Account Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard form that parents of eligible students can submit to establish their student's eligibility for the Education Savings Account Program. The Department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The Department may bar a participating school or education provider from the Education Savings Account Program if the Department establishes that the participating school or education provider has:

(1) Routinely failed to comply with the accountability standards established in Section 5;^[xiii] or

(2) Failed to provide the eligible student with the educational services funded by the Education Savings Account.

(D) If the Department decides to bar a participating school or education provider from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Education Savings Account Program.

| Section 7. {Responsibilities of Resident School Districts.} -

(A) The resident school district shall provide a participating school or education provider that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for an eligible student to and from the participating school or education provider under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

Section 8. {Effective Date.} The Education Savings Account Program will be in effect beginning with the fall semester of the next school year.

Footnotes

[i] The definition for an eligible student in this model legislation includes all children of school age, as long as they meet the initial family income test. The authors believe that all children should receive public support for their education regardless of whether they attend a public or private school, whether they are just starting school, or have already dropped out. Please note that this inclusive definition will significantly increase the number of students in your state receiving public support for their education and thereby either increase the costs to taxpayers or reduce the level of assistance available to support each student.

Legislators wishing to draft a bill that saves money will want to limit eligibility largely to students who attended a public school in the semester prior to first receiving a grant to their Education Savings Account. Because many of the grants to Education Savings Accounts will be less than what the state would have spent on the student's behalf at their public school of residence, the state will achieve a savings that would make it possible to extend these accounts to additional students including children who are attending school in the state for the first time (such as kindergartners and new residents) or existing private school students in the "school entry grades" of kindergarten and ninth grade. The draft bill assumes there will be no cap on enrollment or funding. If either type of cap were to be applied, we recommend creating priority status for siblings and children from families eligible for the free and reduced price lunch program.

[ii] This bill designates the Department of Public Instruction as the agency regulating the Education Savings Account Act. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to consider other capable departments, create a new small agency, or contract with a private nonprofit organization to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

[iii] This model legislation allows students to use the funds in their Education Savings Account to attend a private school. The authors support giving parents the widest possible array of choices so that they can choose the education that best meets their child's needs. In states without open enrollment programs (public school choice), legislators may also want to include public schools outside of the student's resident school district in the definition of participating school. This would give students the ability to use the funds

in their Education Savings Account to pay for nonresident tuition at a public school outside their district of residence.

[iv] This particular set of proportions represent a framework for one approach to means testing the scholarship amount. Legislators should develop a formula that makes sense for their state.

[v] Like in Footnote ii, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to consider other capable departments, create a new small agency or contract with a private nonprofit organization to administer the program.

[vi] Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring on the basis of race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

[vii] The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individual who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.

[viii] The model legislation provides two methods for schools to demonstrate financial viability to ensure that funds from Education Savings Accounts are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the parents. They will therefore conduct the checks necessary to protect their financial interest as well as the interests of the parents and the taxpayers. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions, so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the parents. This might include things like personal guarantees, reserve accounts, or escrow accounts.

[ix] The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program. Therefore, all participating students should be required to annually take either the state achievement tests or nationally norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome.

[x] Like in Footnote ii, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state.

[xi] The purpose of administering the tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in their existing public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

[xii] Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate whether students who participate in the program are better off than a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

[xiii] The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

Section X: {Evaluation of the Parental Choice Scholarship Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

- (1) the level of participating students' satisfaction with the program;*
- (2) the level of parental satisfaction with the program;*
- (3) the fiscal impact to the state and resident school districts of the program;*
- (4) the impact of the program on public and private school capacity, availability and quality; and*
- (5) participating students' academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.*

(C) The researchers who conduct the study shall:

- (1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;*
- (2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and*
- (3) provide the legislature with a final copy of the evaluation of the program.*

(D) The relevant public schools and the parents of participating students shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of at least five years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review, while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised,

the remaining legislation produces a program that is workable and achieves the original intent of the bill.

^{iv} This updated model legislation recommends that students with an ESA receive the same public investment in their education as those attending traditional public schools. The authors do not adjust the amount granted to an ESA student based upon the household's income because states do not adjust the public investment for a student attending a traditional public school or a charter school based upon their household income. This model bill originally suggested making eligibility universal then adjusting the amount granted to an ESA based upon the household income of the eligible student. Since then, only one state has adopted that model. Nevada, the first state to make all students eligible for an ESA, also chose to adjust the amount granted based upon the student's situation. In Nevada, special needs students and students from households that qualify for Free and Reduced Price Lunch will receive 100 percent of the state per pupil funding. All other students will receive 90 percent of the state per pupil funding.